



House of Commons  
CANADA

*Dept. of Finance*

*Budget*

Schedule "A"

to

NOTICE OF WAYS AND MEANS MOTION

respecting an Act  
to amend  
the Income Tax Act  
and other Acts.

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Friday, June 18, 1971

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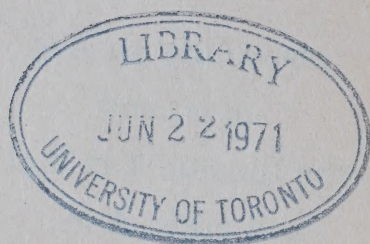
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## PREFACE

The annexed document (hereinafter referred to as “the Bill”) is divided into three Parts. Part I of the Bill consists of the amendments to the *Income Tax Act* proposed by clause 1. Part II consists of proposed changes to other Acts that are related to or consequential upon the amendments contained in Part I.

Part III deals with the coming into force and application of the amendments contained in Part I, and will set forth special transitional rules that would apply until such time as the proposed new law becomes fully operative, as well as special rules that would apply in the case of certain taxpayers having taxation years not coinciding with calendar years.

For ease of reference, Part III is given a special short title, namely the *Income Tax Application Rules, 1971*. It is so referred to in the text of the provisions set forth in clause 1 of the Bill.



## EXPLANATORY NOTES

*Clause 1 of the Bill:* This clause would repeal Parts I to IIIA and Parts V to VII of the *Income Tax Act* and would substitute the provisions set forth therein.

Where a particular section, subsection or paragraph contained in the text of the provisions set forth in clause 1 makes no change in the present law, or makes no change except for necessary alterations in cross-references or except for minor alterations in wording or arrangement that are not intended to affect the substance of the present law, the explanatory note opposite the particular section, subsection or paragraph refers only to the corresponding provision of the present law without further elaboration.

Where a particular section, subsection or paragraph continues an existing provision in the present law but makes changes therein that are intended to affect its substance, the existing provision is identified in the explanatory notes but is marked as “modified”.

A totally new provision, or a provision that has been altered in such a manner that there is no readily-identifiable corresponding provision in the present law, is marked in the explanatory notes as “new”.



The arrangement of the several Parts, Divisions and Subdivisions of the *Income Tax Act* as proposed by clause 1 is as follows:

| <i>Heading</i>   | <i>Section(s)</i> |
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| Division B — Computation of Income   |                   |
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THE HOUSE OF COMMONS OF CANADA

BILL C—

An Act to amend the Income Tax Act and to make certain provisions and alterations in the statute law related to or consequential upon the amendments to that Act

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

PART I

R.S., c. 148      1. Parts I to IIIA and Parts V to VII of the *Income Tax Act* are repealed and the following substituted therefor:

“PART I — INCOME TAX

DIVISION A — LIABILITY FOR TAX

Tax payable  
by persons  
resident  
in Canada

2. (1) An income tax shall be paid as hereinafter required upon the taxable income for each taxation year of every person resident in Canada at any time in the year.

2. (1). Subsection 2(1)

Taxable  
income  
defined

(2) The taxable income of a taxpayer for a taxation year is his income for the year minus the deductions permitted by Division C.

(2). Subsection 2(3)

Tax payable  
by non-  
resident  
persons

(3) Where a person who is not taxable under subsection (1) for a taxation year

(3). Subsection 2(2), modified

(a) was employed in Canada,

(b) carried on a business in Canada, or

(c) disposed of a taxable Canadian property, at any time in the year or a previous year, an income tax shall be paid as hereinafter required upon his taxable income earned in Canada for the year determined in accordance with Division D.



## DIVISION B—COMPUTATION OF INCOME

*Basic Rules*Income for  
taxation  
year

3. The income of a taxpayer for a taxation year for the purposes of this Part is his income for the year determined by the following rules:

(a) determine the aggregate of amounts each of which is the taxpayer's income for the year (other than a taxable capital gain from the disposition of a property) from a source inside or outside Canada, including, without restricting the generality of the foregoing, his income for the year from each office, employment, business and property;

(b) determine the amount, if any, by which  
(i) the aggregate of his taxable capital gains for the year from dispositions of property other than listed personal property, and his taxable net gain for the year from dispositions of listed personal property,

exceeds

(ii) his allowable capital losses for the year from dispositions of property other than listed personal property;

(c) determine the amount, if any, by which the aggregate determined under paragraph (a) plus the amount determined under paragraph (b) exceeds the aggregate of the deductions permitted by subdivision e in computing the taxpayer's income for the year (except such of or such part of those deductions, if any, as have been taken into account in determining the aggregate referred to in paragraph (a));

(d) determine the amount, if any, by which the remainder determined under paragraph (c) exceeds the aggregate of amounts each of which is his loss for the year from an office, employment, business or property; and

3. New



(e) determine the amount, if any, by which the remainder determined under paragraph (d) exceeds the lesser of

- (i) the amount, if any, by which the amount determined under subparagraph (b)(ii) exceeds the aggregate determined under subparagraph (b)(i), and
- (ii) \$1,000, or if the taxpayer is a corporation nil;

and the remainder, if any, obtained under paragraph (e) is the taxpayer's income for the year for the purposes of this Part.

4. (1) For the purposes of this Act,

(a) a taxpayer's income or loss for a taxation year from an office, employment, business, property or other source, or from sources in a particular place, is the taxpayer's income or loss, as the case may be, computed in accordance with this Act on the assumption that he had during the taxation year no income or loss except from that source or no income or loss except from those sources, as the case may be, and was allowed no deductions in computing his income for the taxation year except such deductions as may reasonably be regarded as wholly applicable to that source or to those sources, as the case may be, and except such part of any other deductions as may reasonably be regarded as applicable thereto; and

(b) where the business carried on by a taxpayer or the duties of the office or employment performed by him was carried on or were performed, as the case may be, partly in one place and partly in another place, the taxpayer's income or loss for the taxation year from the business carried on by him or the duties performed by him in a particular place is the taxpayer's income or loss, as the case may be, computed in accordance with this Act on the assumption that he had during the taxation year no income or loss except from the part of the business that was carried on in that particular place or no income or loss except from the part of those duties that were performed in that particular place, as the case may be, and was allowed no

4. (1). Subsection 139(la), modified

Income or  
loss from a  
source or  
from sources  
in a  
place



deductions in computing his income for the taxation year except such deductions as may reasonably be regarded as wholly applicable to that part of the business or to those duties, as the case may be, and except such part of any other deductions as may reasonably be regarded as applicable thereto.

- |   |   |                                   |
|---|---|-----------------------------------|
| Idem  | <p>(2) Subject to subsection (3), in applying subsection (1) for the purposes of this Part, no deductions permitted by sections 60 to 63 are applicable either wholly or in part to a particular source or to sources in a particular place, as the case may be.</p>  | (2). New                          |
| Deductions applicable                           | <p>(3) In applying paragraph (1)(b) for the purposes of sections 115 and 126 all deductions allowed in computing the income of a taxpayer for a taxation year for the purposes of this Part, except any deduction permitted by paragraph 60(b), (c), (d) or (i) or by section 146, shall be deemed to be applicable either wholly or in part to a particular source or to sources in a particular place, as the case may be.</p>  | (3). Subsection 139(1b), modified |
| Limitation respecting inclusions and deductions | <p>(4) Unless a contrary intention is evident, no provision of this Part shall be read or construed to require the inclusion or to permit the deduction, in computing the income of a taxpayer for a taxation year or his income or loss for a taxation year from a particular source or from sources in a particular place, of any amount to the extent that that amount has been included or deducted, as the case may be, in computing such income or loss under, in accordance with or by virtue of any other provision of this Part.</p> | (4). New                          |



Subdivision a — Income or loss from  
an office or employment

*Basic Rules*

Income from  
office or  
employ-  
ment

5. (1) Subject to this Part, a taxpayer's income for a taxation year from an office or employment is the salary, wages and other remuneration, including gratuities, received by him in the year.

5. (1). Subsection 5(1), modified

Loss from  
office or  
employ-  
ment

(2) A taxpayer's loss for a taxation year from an office or employment is the amount of his loss, if any, for the taxation year from that source computed by applying the provisions of this Act respecting computation of income from that source *mutatis mutandis*.

(2). New

*Inclusions*

Amounts to  
be included  
as income  
from office  
or employ-  
ment

6. (1) There shall be included in computing the income of a taxpayer for a taxation year as income from an office or employment such of the following amounts as are applicable:

6. (1).

Value of  
benefits

(a) the value of board, lodging and other benefits of any kind whatever (except the benefit he derives from his employer's contributions to or under a registered pension fund or plan, group sickness or accident insurance plan, private health services plan, supplementary unemployment benefit plan, deferred profit sharing plan or group term life insurance policy) received or enjoyed by him in the year in respect of, in the course of, or by virtue of an office or employment;

(a). Paragraph 5(1)(a), modified

Personal  
or living  
expenses

(b) all amounts received by him in the year as an allowance for personal or living expenses or as an allowance for any other purpose, except

(b). Paragraph 5(1)(b)

(i) travelling or personal or living expense allowances

(A) expressly fixed in an Act of the Parliament of Canada, or



(B) paid under the authority of the Treasury Board to a person who was appointed or whose services were engaged pursuant to the *Inquiries Act*, in respect of the discharge of his duties relating to such appointment or engagement,

(ii) travelling and separation allowances received under service regulations as a member of the Canadian Forces,

(iii) representation or other special allowances received in respect of a period of absence from Canada as a person described in paragraph 250(1)(b), (c) or (d),

(iv) representation or other special allowances received by an agent-general of a province in respect of a period while he was in Ottawa as the agent-general of the province,

(v) reasonable allowances for travelling expenses received by an employee from his employer in respect of a period when he was employed in connection with the selling of property or negotiating of contracts for his employer,

(vi) reasonable allowances received by a minister or clergyman in charge of or ministering to a diocese, parish or congregation for expenses for transportation incident to the discharge of the duties of his office or employment,

(vii) allowances (not in excess of reasonable amounts) for travelling expenses received by an employee (other than an employee employed in connection with the selling of property or negotiating of contracts for his employer) from his employer if they were computed by reference to time actually spent by the employee travelling away from

(A) the municipality where the employer's establishment at which the employee ordinarily worked or to which he ordinarily made his reports was located, and



## Subsection 6(1)

(B) the metropolitan area, if there is one, where that establishment was located,

in the performance of the duties of his office or employment, or

(viii) such part of the aggregate of allowances received by a volunteer fireman from a government, municipality or other public authority for expenses incurred by him in respect of, in the course of, or by virtue of the discharge of his duties as a volunteer fireman, as does not exceed \$300;

Director's  
or other  
fees

(c) director's or other fees received by him in the year in respect of, in the course of, or by virtue of an office or employment;

Alloca-  
tions, etc.,  
under profit  
sharing  
plan

(d) amounts allocated to him in the year by a trustee under an employees profit sharing plan as provided by section 144 except subsection (4) thereof, and amounts required by subsection 144(7) to be included in computing his income for the year;

Standby  
charge for  
automobile

(e) where his employer made an automobile available to him in the year for his personal use (whether for his exclusive personal use or otherwise), the amount, if any, by which an amount that would be a reasonable standby charge for the automobile for the aggregate number of days in the year during which it was made so available (whether or not it was used by the taxpayer) exceeds the aggregate of

(i) the amount paid by him in the year to his employer for the use of the automobile, and

(ii) any amount included in computing his income for the year by virtue of paragraph (a) in respect of the use by him of the automobile in the year; and

Employ-  
ment insu-  
rance  
benefits

(f) the aggregate of amounts received by him in the year that were payable to him on a periodic basis in respect of the loss of all or any part of his income from an office or employment, pursuant to a

(i) sickness or accident insurance plan,

(c). Subparagraph 6(1)(a)(ii), modified

(d). Paragraph 6(1)(k), modified

(e). New

(f). New

(ii) disability insurance plan, or  
 (iii) income maintenance insurance plan  
 to or under which his employer has made  
 a contribution, not exceeding the amount,  
 if any, by which

(iv) the aggregate of all such amounts  
 received by him pursuant to the plan  
 before the end of the year and

(A) where there was a preceding taxa-  
 tion year ending after 1971 in which  
 any such amount was, by virtue of  
 this paragraph, included in computing  
 his income, after the last such year,  
 and

(B) in any other case, after 1971,  
 exceeds

(v) the aggregate of the contributions  
 made by the taxpayer under the plan  
 before the end of the year and

(A) where there was a preceding taxa-  
 tion year described in subparagraph  
 (iv), after the last such year, and

(B) in any other case, after 1967.

Reasona-  
 ble standby  
 charge  
 minimum  
 amount

(2) For the purposes of paragraph (1)(e)  
 “an amount that would be a reasonable standby  
 charge for the automobile” for the aggregate  
 number of days in a taxation year during which  
 it was made available by an employer shall be  
 deemed not to be less than,

(a) where the employer owned the auto-  
 mobile at any time in the year, an amount in  
 respect of its capital cost to the employer  
 equal to the percentage thereof obtained  
 when 1% is multiplied by the quotient  
 obtained when such of the aggregate number  
 of days hereinbefore referred to as were days  
 during which the employer owned the auto-  
 mobile is divided by 30 (except that if the  
 quotient so obtained is not a full number it  
 shall be taken to be the nearest full number  
 or, if there is no nearest full number, then to  
 the full number next below it), and

(2). New



## Subsection 6(2)

(b) where the employer leased the automobile from a lessor at any time in the year, an amount equal to  $\frac{1}{3}$  of the cost incurred by the employer for the purpose of leasing the automobile for the aggregate number of days hereinbefore referred to.

Payments  
by em-  
ployer to  
employee

(3) An amount received by one person from another

(3). Section 25

(a) during a period while the payee was an officer of, or in the employment of, the payer, or

(b) on account or in lieu of payment of, or in satisfaction of, an obligation arising out of an agreement made by the payer with the payee immediately prior to, during or immediately after a period that the payee was an officer of, or in the employment of, the payer,

shall be deemed, for the purposes of section 5, to be remuneration for the payee's services rendered as an officer or during the period of employment, unless it is established that, irrespective of when the agreement, if any, under which the amount was received was made or the form or legal effect thereof, it cannot reasonably be regarded as having been received

(c) as consideration or partial consideration for accepting the office or entering into the contract of employment,

(d) as remuneration or partial remuneration for services as an officer or under the contract of employment, or

(e) in consideration or partial consideration for a covenant with reference to what the officer or employee is, or is not, to do before or after the termination of the employment.

Portion of  
premium  
under  
certain  
group  
insurance  
policies

(4) Notwithstanding any exception provided for in paragraph (1)(a), there shall be included in computing the income of a taxpayer for a taxation year as income from an office or employment the premium in respect of any period in the year for any excess over \$25,000

(4). Paragraph 6(1)(db)

of the amount of life insurance in effect on the life of the taxpayer during that period under a group term life insurance policy under which any life insurance was effected on the life of the taxpayer in respect of, in the course of, or by virtue of his office or employment or former office or employment, determined as the remainder obtained by

(a) dividing that proportion of the total premium payable on account of life insurance under the policy in respect of the policy year ending in the year, minus the amount of any dividend or experience rating refund payable on account of life insurance under the policy in respect of the policy year, that the number of days in that period is of the number of days in the policy year, by the mean of the total amount of life insurance in effect under the policy at the commencement of the policy year and the total amount of life insurance so in effect at the end of the policy year,

(b) multiplying the quotient obtained under paragraph (a) by the excess over \$25,000 of the amount of life insurance in effect on the life of the taxpayer during that period under the policy, and

(c) subtracting from the product obtained under paragraph (b) that proportion of any amount paid by the taxpayer in the year in respect of the amount of life insurance in effect on his life during that period under the policy that the excess over \$25,000 of the amount of life insurance so in effect on his life is of the amount of life insurance so in effect on his life,

and in the case of a taxpayer on whose life any life insurance was in effect during any period in the year under more than one such group insurance policy,

(d) this subsection shall be read as requiring a separate determination of the amount or amounts, if any, to be included in computing his income for the year in respect of each particular policy, and



*Subsection 6(4)*

(e) the expression "\$25,000" in this subsection shall be read as referring, in respect of a particular policy, to that proportion of \$25,000 that the amount of life insurance in effect on the life of the taxpayer during that period under the policy is of the aggregate amount of life insurance in effect on his life during that period under all of the policies.

Reference  
to policy  
year  
ending  
in taxa-  
tion year

(5) A reference in subsection (4) to "the policy year" ending in a taxation year shall, where there is no such year ending in the taxation year, be construed as a reference to the period commencing on the anniversary in the immediately preceding taxation year of the date of issue of the policy, or where there is no such anniversary, on the date of issue of the policy, and ending on the last day in the taxation year on which the policy was in effect.

(5). Subsection 6(2)

Employ-  
ment at  
special  
work site

(6) Notwithstanding subsection (1), in computing the income of a taxpayer for a taxation year from an office or employment, there shall not be included

(6). Subsection 5(2), modified

(a) the value of, or an allowance (not in excess of a reasonable amount) in respect of expenses incurred by him for, board and lodging received by him

(i) in respect of, in the course of or by virtue of his office or employment at a special work site from which, by reason of distance from the place where he maintained a self-contained domestic establishment (in this subsection referred to as his "ordinary place of residence") in which he resided and actually supported a spouse or a person dependent upon him for support and connected with him by blood relationship, marriage or adoption, he could not reasonably be expected to return daily to his ordinary place of residence, and

## Subsection 6(6)

(ii) in respect of a period while he was required by his duties to be away, for a period of not less than 36 hours, from his ordinary place of residence; or

(b) the value of, or an allowance (not in excess of a reasonable amount) in respect of expenses incurred by him for, transportation between his ordinary place of residence and the special work site referred to in subparagraph (a)(i), received by him

(i) in respect of, in the course of or by virtue of his office or employment described in subparagraph (a)(i), and

(ii) in respect of a period described in subparagraph (a)(ii), during which he received board and lodging, or a reasonable allowance in respect of expenses incurred by him for board and lodging, from his employer.

"Special work site" defined

(7) For the purposes of subsection (6) "special work site" in respect of a taxpayer means a site

(7). New

(a) at which the duties performed by him were of a temporary nature, or

(b) the location of which was such that the taxpayer could not reasonably be expected to establish and maintain a self-contained domestic establishment for his spouse or a person described in subparagraph (6)(a)(i) at or near the site.

Remuneration as employee of spouse

(8) Notwithstanding anything in section 5 or this section, in computing the income of a taxpayer for a taxation year from an office or employment, there shall not be included any amount that is, by virtue of subsection 74(3), not required to be so included or that is, by subsection 74(4), deemed not to have been received by him.

(8). New

Agreement to issue shares to employees

7. (1) Where a corporation has agreed to sell or issue shares of the capital stock of the corporation or of a corporation with which it does not deal at arm's length to an employee of

7. (1). Subsection 85A(1)



the corporation or of a corporation with which it does not deal at arm's length,

(a) if the employee has acquired shares under the agreement, a benefit equal to the amount by which the value of the shares at the time he acquired them exceeds the amount paid or to be paid to the corporation therefor by him shall be deemed to have been received by the employee by virtue of his employment in the taxation year in which he acquired the shares;

(b) if the employee has transferred or otherwise disposed of rights under the agreement in respect of some or all of the shares to a person with whom he was dealing at arm's length, a benefit equal to the value of the consideration for the disposition shall be deemed to have been received by the employee by virtue of his employment in the taxation year in which he made the disposition;

(c) if rights of the employee under the agreement have, by one or more transactions between persons not dealing at arm's length, become vested in a person who has acquired shares under the agreement, a benefit equal to the amount by which the value of the shares at the time that person acquired them exceeds the amount paid or to be paid to the corporation therefor by that person shall be deemed to have been received by the employee by virtue of his employment in the taxation year in which that person acquired the shares; and

(d) if rights of the employee under the agreement have, by one or more transactions between persons not dealing at arm's length, become vested in a person who has transferred or otherwise disposed of rights under the agreement to a person with whom he was dealing at arm's length, a benefit equal to the value of the consideration for the disposition shall be deemed to have been received by the employee by virtue of his employment in the taxation year in which that person made the disposition.

## Section 7

Shares held  
by a  
trustee

(2) Where a share is held by a trustee in trust or otherwise, either absolutely, conditionally or contingently, for an employee, the employee shall be deemed, for the purposes of this section, to have acquired the share at the time the trustee commenced so to hold it.

(2). Subsection 85A(4)

Special  
provision

(3) Where a corporation has agreed to sell or issue shares of the capital stock of the corporation or of a corporation with which it does not deal at arm's length to an employee of the corporation or of a corporation with which it does not deal at arm's length

(3). Subsection 85A(5)

(a) no benefit shall be deemed to have been received or enjoyed by the employee under or by virtue of the agreement for the purpose of this Part except as provided by this section, and

(b) the income for a taxation year of the corporation or of a corporation with which it does not deal at arm's length shall be deemed to be not less than its income for the year would have been if a benefit had not been conferred on the employee by the sale or issue of the shares to him or to a person in whom his rights under the agreement have become vested.

Application

(4) For greater certainty it is hereby declared that, where a person to whom any provision of subsection (1) would otherwise apply has ceased to be an employee before all things have happened that would make that provision applicable, subsection (1) shall continue to apply as though the person were still an employee and as though the employment were still in existence.

(4). Subsection 85A(6)

Idem

(5) This section does not apply if the benefit conferred by the agreement was not received in respect of, in the course of, or by virtue of the employment.

(5). Subsection 85A(7)

Shares  
purchased  
by trustee  
for  
employees  
of corpo-  
ration

(6) Where a corporation has entered into an arrangement whereby shares of the corporation or of a corporation with which it does not deal at arm's length are purchased by a trustee to be held by him in trust for sale to an employee of

(6). Subsection 85A(8)



*Subsection 7(6)*

the corporation or of a corporation with whom it does not deal at arm's length,

(a) for the purposes of this section except subsection (2), any rights of the employee under the arrangement in respect of those shares, any shares acquired thereunder by the employee or by a person in whom rights of the employee thereunder in respect of those shares have become vested, and any amounts paid or agreed to be paid to the trustee for any shares acquired thereunder by the employee or any such person, shall be deemed to be, respectively, rights under, shares acquired under, and amounts paid or agreed to be paid to the corporation for shares acquired under, an agreement with the corporation whereby the corporation has agreed to sell or issue shares to the employee; and

(b) subsection (2) does not apply in respect of shares held by the trustee under the arrangement.

*Deductions*

Deductions  
allowed

8. (1) In computing a taxpayer's income for a taxation year from an office or employment, there may be deducted such of the following amounts as are wholly applicable to that source or such part of the following amounts as may reasonably be regarded as applicable thereto:

8. (1). New

Employment  
expense  
deduction

(a) a single amount in respect of all offices and employments of the taxpayer, equal to the lesser of \$150 and 3% of the aggregate of (i) his incomes for the year from all offices and employments (other than the office of a corporation director) before making any deduction under this section, and

(a). New

## Subsection 8(1)

(ii) all amounts included in computing his income for the year by virtue of paragraphs 56(1)(m) and (o);

Legal  
expenses of  
employee

(b) amounts paid by the taxpayer in the year as or on account of legal expenses incurred by him in collecting salary or wages owed to him by his employer or former employer;

(b). Paragraph 11(1)(ib), modified

Clergyman's  
residence

(c) where the taxpayer is a member of the clergy or of a religious order or a regular minister of a religious denomination, and is in charge of, or ministering to a diocese, parish or congregation, or engaged exclusively in full-time administrative service by appointment of a religious order or religious denomination, an amount equal to

(c). Paragraph 11(1)(q)

(i) the value of the residence or other living accommodation occupied by him in the course of or by virtue of his office or employment as such member or minister so in charge of or ministering to a diocese, parish or congregation, or so engaged in such administrative service, to the extent that such value is included in computing his income for the year by virtue of section 6, or

(ii) rent paid by him for a residence or other living accommodation rented and occupied by him, or the fair rental value of a residence or other living accommodation owned and occupied by him, during the year but not, in either case, exceeding his remuneration from his office or employment as described in subparagraph (i);

Teachers'  
exchange  
fund  
contribution

(d) a single amount in respect of all employments of the taxpayer as a teacher, not exceeding \$250 paid by him in the year to a fund established by the Canadian Education Association for the benefit of teachers from Commonwealth countries present in Canada under a teachers' exchange arrangement;

(d). Paragraph 11(1)(qa)



*Subsection 8(1)*

Telegrapher  
or station  
agent's  
expenses

(e) amounts disbursed by the taxpayer in the year for meals and lodging while employed by a railway company away from his ordinary place of residence as a relieving telegrapher or station agent or on maintenance and repair work to the extent that he has not been reimbursed and is not entitled to be reimbursed in respect thereof;

Salesman's  
expenses

(f) where the taxpayer was employed in the year in connection with the selling of property or negotiating of contracts for his employer, and

(i) under the contract of employment was required to pay his own expenses,

(ii) was ordinarily required to carry on the duties of his employment away from his employer's place of business,

(iii) was remunerated in whole or part by commissions or other similar amounts fixed by reference to the volume of the sales made or the contracts negotiated, and

(iv) was not in receipt of an allowance for travelling expenses in respect of the taxation year that was, by virtue of subparagraph 6(1)(b)(v), not included in computing his income,

amounts expended by him in the year for the purpose of earning the income from the employment, not exceeding the commissions or other similar amounts fixed as aforesaid received by him in the year;

Transport  
employee's  
expenses

(g) where the taxpayer was an employee of a person whose principal business was passenger, goods, or passenger and goods transport and the duties of the employment required him, regularly,

(i) to travel, away from the municipality where the employer's establishment to which he reported for work was located and away from the metropolitan area, if there is one, where it was located, on vehicles used by the employer to transport the goods or passengers, and

(e). Subsection 11(5), modified

(f). Subsection 11(6)

(g). Subsection 11(7)

## Subsection 8(1)

(ii) while so away from such municipality and metropolitan area, to make disbursements for meals and lodging,

amounts so disbursed by him in the year to the extent that he has not been reimbursed and is not entitled to be reimbursed in respect thereof;

(h) where the taxpayer, in the year,

(i) was ordinarily required to carry on the duties of his employment away from his employer's place of business or in different places,

(ii) under the contract of employment was required to pay the travelling expenses incurred by him in the performance of the duties of his office or employment, and

(iii) was not in receipt of an allowance for travelling expenses that was, by virtue of subparagraph 6(1)(b)(v), (vi) or (vii), not included in computing his income and did not claim any deduction for the year under paragraph (e), (f) or (g),

amounts expended by him in the year for travelling in the course of his employment;

(i) amounts paid by the taxpayer in the year as

(i) annual professional membership dues the payment of which was necessary to maintain a professional status recognized by statute,

(ii) office rent, or salary to an assistant or substitute, the payment of which by the officer or employee was required by the contract of employment,

(iii) the cost of supplies that were consumed directly in the performance of the duties of his office or employment and that the officer or employee was required by the contract of employment to supply and pay for,

(iv) annual dues to maintain membership in a trade union as defined

(A) by section 3 of the *Canada Labour Code*, or

(h). Subsection 11(9)

(i). Subsection 11(10)

Travelling  
expenses

Dues and  
other ex-  
penses of  
performing  
duties



## Subsection 8(1)

(B) in any provincial statute providing for the investigation, conciliation or settlement of industrial disputes,

or to maintain membership in an association of public servants the primary object of which is to promote the improvement of the members' conditions of employment or work, and

(v) annual dues that were, pursuant to the provisions of a collective agreement, retained by his employer from his remuneration and paid to a trade union or association designated in subparagraph (iv) of which the taxpayer was not a member,

to the extent that he has not been reimbursed, and is not entitled to be reimbursed in respect thereof;

(j) where a deduction may be made under paragraph (f) or (h) in computing the taxpayer's income from an office or employment for a taxation year,

(i) any interest paid by him in the year on borrowed money used for the purpose of acquiring an automobile used in the performance of the duties of his office or employment, and

(ii) such part, if any, of the capital cost to him of an automobile used in the performance of the duties of his office or employment as is allowed by regulation;

(k) any amount payable by him as an employee's premium for the year under the *Unemployment Insurance Act, 1971*;

(l) any amount payable by him as an employee for the year as a contribution under the *Canada Pension Plan* or under a provincial pension plan as defined in section 3 of the *Canada Pension Plan*; and

(m) amounts contributed by the taxpayer in the year to or under a registered pension fund or plan,

(i) not exceeding in the aggregate his contribution limit for the year under this subparagraph in respect of the fund or plan, if retained by his employer from his remuneration for or under the fund or plan in respect of services rendered in the year or paid into or under the fund or plan by the taxpayer as part of his

(j). Subsection 11(11), modified

(k). New

(l). Paragraph 11(1)(x)

(m). Paragraph 11(1)(i), modified

Automobile costs

Unemployment insurance premium

Canada Pension Plan contribution

Contribution to registered pension plan

*Subsection 8(1)*

dues for the year as a member of a trade union,

(ii) not exceeding in the aggregate, the lesser of

(A) his contribution limit for the year under this subparagraph in respect of the fund or plan, paid by him in the year into or under the fund or plan in respect of services rendered by him previous to the year while he was not a contributor, and

(B) that part of an amount paid by him in the year into or under the fund or plan in respect of services rendered by him previous to the year while he was not a contributor that is not in excess of the product obtained by multiplying the number of years previous to the year in which he rendered services while he was not a contributor by his contribution limit for the year under this subparagraph in respect of the fund or plan, and subtracting from the product so obtained the aggregate of all amounts deducted under this subparagraph in previous years,

to the extent not deductible in the immediately preceding year under paragraph 60(j), and

(iii) not exceeding in the aggregate \$2,500 minus any amount deducted under subparagraph (i) or (ii) in computing his income for the year, paid by him in the year whether into or under the fund or plan or into or under any other such fund or plan in respect of services rendered by him previous to the year while he was a contributor, to the extent not deductible in the immediately preceding year under paragraph 60(j).



## Section 8

General  
limitation

(2) Except as permitted by this section, no deductions shall be made in computing a taxpayer's income for a taxation year from an office or employment.

(2). Subsection 5(1), modified

Limitation  
re employ-  
ment  
expense  
deduction

(3) In computing a taxpayer's income for a taxation year, no amount is deductible under paragraph (1)(a)

(3). New

(a) if any amount has been deducted under paragraph (1)(f) in computing his income for the year,

(b) if the taxpayer was, at any time in the year, a member of the Senate or House of Commons of Canada, or

(c) in the case of a taxpayer to whom subsection 81(2) or (3) applies, except to the extent that the amount otherwise deductible under paragraph (1)(a) in computing his income for the year exceeds the amounts that, but for subsection 81(2) or (3), as the case may be, would be included in computing that income.

## Meals

(4) An amount expended in respect of a meal consumed by an officer or employee shall not be included in computing the amount of a deduction under paragraph (1)(f) or (h) unless the meal was consumed during a period while he was required by his duties to be away, for a period of not less than twelve hours, from the municipality where the employer's establishment to which he ordinarily reported for work was located and away from the metropolitan area, if there is one, where it was located.

(4). Subsection 11(9a)

Certain  
annual  
dues not  
deductible

(5) Notwithstanding subparagraphs (1)(i)(i) and (iv), annual dues are not deductible thereunder in computing a taxpayer's income from an office or employment to the extent that they are, in effect, levied

(5). Subsection 11(12)

(a) for or under a superannuation fund or plan,

(b) for or under a fund or plan for annuities, insurance or similar benefits, or

## Subsection 8(5)

(c) for any other purpose not directly related to the ordinary operating expenses of the association or trade union to which they were paid.

"Con-  
tribution  
limit"  
defined

(6) For the purposes of paragraph (1)(m), a taxpayer's "contribution limit" for a taxation year under subparagraph (1)(m)(i) or (ii) in respect of a registered pension fund or plan means such amount as is designated by the taxpayer in his return of income for the year to be his contribution limit for the year under subparagraph (1)(m)(i) or (ii), as the case may be, in respect of that fund or plan, not exceeding however the amount, if any, by which \$2,500 exceeds the aggregate of amounts each of which is his contribution limit for the year under subparagraph (1)(m)(i) or (ii), as the case may be, in respect of any other such fund or plan.

(6). New

(7). Subsection 11(3c)

Teachers

(7) For the purpose of determining whether a teacher may deduct amounts contributed by him to or under a registered pension fund or plan in computing his income for a taxation year during which he was employed by Her Majesty or a person exempt from tax for the year under section 149, subparagraph (1)(m)(ii) shall be read as though the words "while he was not a contributor" were deleted.

(8). Subsection 11(8)

Employees'  
contribu-  
tions to  
pension  
fund for  
arrears

(8) Where an amount has been contributed by a taxpayer to or under a registered pension fund or plan

(a) after 1945, in respect of services rendered by him in a year while he was not a contributor, or

(b) after 1962, in respect of services rendered by him in a year while he was a contributor,

it may be included in computing a deduction under

(c) subparagraph (1)(m)(ii), in the case of an amount described in paragraph (a), or

(d) subparagraph (1)(m)(iii), in the case of an amount described in paragraph (b),



for taxation years subsequent to the year in which it was contributed to the extent that it exceeds the aggregate of amounts deductible in respect thereof under this subsection, subparagraph (1)(m)(ii) or (iii) or paragraph in computing incomes for years preceding the taxation year.

Foreign  
state  
income  
taxes

(9) In computing the income of a taxpayer for a taxation year from the duties of an office or employment performed by him in a country other than Canada, there may be deducted the amount, if any, of any income or profits taxes paid to the government of a state, province or other political subdivision of that country to the extent that such taxes

(9). New

(a) were deductible under the laws of that country in computing the amount for the year on which the taxpayer is liable to pay income or profits tax imposed by the government of that country, and

(b) may reasonably be regarded as having been paid in respect of the income of the taxpayer for the year from the duties so performed.

#### Subdivision b — Income or loss from a business or property

##### *Basic Rules*

Income from  
business or  
property

9. (1) Subject to this Part, a taxpayer's income for a taxation year from a business or property is his profit therefrom for the year.

9. (1). Section 4

Loss from  
business or  
property

(2) Subject to section 31, a taxpayer's loss for a taxation year from a business or property is the amount of his loss, if any, for the taxation year from that source computed by applying the provisions of this Act respecting computation of income from that source *mutatis mutandis*.

(2). Paragraph 139(1)(x), modified

## Section 9

(3). New

Gains and  
losses not  
included

(3) In this Act, "income from a property" does not include any capital gain from the disposition of that property and "loss from a property" does not include any capital loss from the disposition of that property.

Valuation  
of inven-  
tory  
property

10. (1) For the purpose of computing income from a business, the property described in an inventory shall be valued at its cost to the taxpayer or its fair market value, whichever is lower, or in such other manner as may be permitted by regulation.

10. (1). Subsection 14(2), modified

Idem

(2) Notwithstanding subsection (1), for the purpose of computing income for a taxation year from a business, the property described in an inventory at the commencement of the year shall be valued at the same amount as the amount at which it was valued at the end of the immediately preceding year for the purpose of computing income for that preceding year.

(2). Subsection 14(3)

Incorrect  
valuation

(3) Where the property described in the inventory of a business at the commencement of a taxation year has, according to the method adopted by the taxpayer for computing income from the business for that year, not been valued as required by subsection (1), the property described therein at the commencement of that year shall, if the Minister so directs, be deemed to have been valued as required by that subsection.

(3). Section 43A, modified

Proprietor  
of business

11. (1) Where an individual is a proprietor of a business, his income from the business for a taxation year shall be deemed to be his income from the business for the fiscal period or periods ending in the year.

11. (1). Subsection 15(1), modified

Reference  
to  
"taxation  
year"

(2) Where an individual's income for a taxation year includes income from a business the fiscal period of which does not coincide with the calendar year, unless the context otherwise requires a reference in this subdivision to a "taxation year" or "year" shall, in respect of the business, be read as a reference to a fiscal period of the business ending in the year.

(2). Subsection 85B(8)



*Inclusions*

Amounts to  
be included  
as income  
from  
business or  
property

12. (1) There shall be included in computing the income of a taxpayer for a taxation year as income from a business or property such of the following amounts as are applicable:

12. (1)

Services,  
etc., to be  
rendered

(a) any amount received by the taxpayer in the year in the course of a business

(a). Paragraph 85B(1)(a)

(i) that is on account of services not rendered or goods not delivered before the end of the year or that, for any other reason, may be regarded as not having been earned in the year or a previous year, or

(ii) under an arrangement or understanding that it is repayable in whole or in part on the return or resale to the taxpayer of articles in or by means of which goods were delivered to a customer;

Amounts  
receivable  
in respect  
of services,  
etc.,  
rendered

(b) any amount receivable by the taxpayer in respect of property sold or services rendered in the course of a business in the year, notwithstanding that the amount may not be receivable until a subsequent year, unless the method adopted by the taxpayer for computing income from the business and accepted for the purpose of this Part does not require him to include any amount receivable in computing his income for a taxation year unless it has been received in the year;

(b). Paragraph 85B(1)(b)

Interest

(c) any amount received by the taxpayer in the year or receivable by him in the year (depending upon the method regularly followed by the taxpayer in computing his profit) as, on account or in lieu of payment of, or in satisfaction of, interest;

(c). Paragraph 6(1)(b), modified

Reserve for  
doubtful  
debts

(d) any amount deducted as a reserve for doubtful debts in computing the taxpayer's income for the immediately preceding year;

(d). Paragraph 6(1)(e)

## Subsection 12(1)

Reserves in respect of certain goods and services, etc.

(e) any amount

(i) deducted under paragraph 20(1)(m) (including any amount substituted by virtue of subsection 20(6) for any amount deducted under that paragraph), or

(ii) deducted under paragraph 20(1)(n), in computing the taxpayer's income from a business for the immediately preceding year;

(f) such part of any amount payable to the taxpayer as compensation for damage to, or under a policy of insurance in respect of damage to, property that is depreciable property of the taxpayer as has been expended by the taxpayer

(i) within the year, and

(ii) within a reasonable time after the damage,

on repairing the damage;

(g) any amount received by the taxpayer in the year that was dependent upon the use of or production from any property whether or not that amount was an instalment of the sale price of the property (except that an instalment of the sale price of agricultural land is not included by virtue of this paragraph);

(h) any amount deducted as a reserve under paragraph 20(1)(o) in computing the taxpayer's income for the immediately preceding year;

(i) any amount received in the year on account of a debt in respect of which a deduction for bad debts had been made in computing the taxpayer's income for a previous year;

(j) any amount required by subdivision h to be included in computing the taxpayer's income for the year in respect of a dividend paid by a corporation resident in Canada on a share of its capital stock;

(e). New

(f). Paragraph 6(1)(ea)

(g). Paragraph 6(1)(j)

(h). Paragraph 6(1)(eb)

(i). Paragraph 6(1)(f)

(j). New

Insurance proceeds expended

Payments based on production or use

Previous reserve for quadrennial survey

Bad debts recovered

Dividends from corporations resident in Canada



*Subsection 12(1)**(k)*. New*(l)*. New*(m)*. Paragraph 6(1)(*h*), modified*(n)*. Paragraph 6(1)(*l*)

(2). Subsection 85B(2)

13. (1). Subsection 20(1)

Dividends  
from other  
corporations

(*k*) any amount required by subdivision i to be included in computing the taxpayer's income for the year in respect of a dividend paid by a corporation not resident in Canada on a share of its capital stock or in respect of a share owned by the taxpayer of the capital stock of a foreign affiliate of the taxpayer;

Partnership  
income

(*l*) any amount that is, by virtue of subdivision j, income of the taxpayer for the year from a business or property;

Benefits  
from  
estates, etc.

(*m*) any amount required by subdivision k to be included in computing the income of the taxpayer for the year except any amount deemed by that subdivision to be a taxable capital gain of the taxpayer; and

Employees  
Profit  
sharing  
plan

(*n*) any amount received by the taxpayer in the year under an employees profit sharing plan established for the benefit of employees of the taxpayer or of a corporation with whom the taxpayer does not deal at arm's length.

Interpre-  
tation

(2) Paragraphs (1)(*a*) and (*b*) are enacted for greater certainty and shall not be construed as implying that any amount not referred to therein is not to be included in computing income from a business for a taxation year whether it is received or receivable in the year or not.

Excess of  
proceeds  
over  
undepre-  
ciated  
capital  
cost

13. (1) Where depreciable property of a taxpayer of a prescribed class has, in a taxation year, been disposed of and the proceeds of disposition exceed the undepreciated capital cost to him of depreciable property of that class immediately before the disposition, the lesser of

(*a*) the amount of the excess, and

(*b*) the amount that the excess would be if the property had been disposed of for the capital cost thereof to the taxpayer,

shall be included in computing his income for the year.

## Section 13

Determina-  
tion of net  
amount

(2) Where one or more amounts are by subsection (1) required to be included in computing a taxpayer's income for a taxation year in respect of the disposition of depreciable property of a prescribed class and the taxpayer has, during the year but following the dispositions, acquired further depreciable property of that class, notwithstanding subsection (1) and paragraph (21)(f) the following rules apply:

(a) if the aggregate of the amounts that would, according to the terms of subsection (1), be included thereunder in computing his income is equal to or exceeds the amount that would, according to the terms of paragraph (21)(f), be the undepreciated capital cost to him of depreciable property of that class at the end of the year before any deduction is made under paragraph 20(1)(a) for that year,

(i) the amount to be included in computing his income for the year under subsection (1) in respect of dispositions of depreciable property of that class is that aggregate minus the amount that would be that undepreciated capital cost, and  
(ii) the undepreciated capital cost to him of depreciable property of that class at the end of the year is nil; and

(b) if the aggregate of the amounts that would, according to the terms of subsection (1), be included thereunder in computing his income is less than the amount that would, according to the terms of paragraph (21)(f), be the undepreciated capital cost to him of depreciable property of that class at the end of the year before any deduction is made under paragraph 20(1)(a) for that year,

(i) no amounts shall be included in computing his income for the year in respect of depreciable property of that class under subsection (1), and

(2). Subsection 20(2)

(a). Paragraph 20(2)(a)

(b). Paragraph 20(2)(b)



*Subsection 13(3)*

(ii) the undepreciated capital cost to him of depreciable property of that class at the end of the year before any deduction is made under paragraph 20(1)(a) for the year is the amount that it would be according to the terms of paragraph (21)(f) minus that aggregate.

Reference to  
"income"  
of individual

(3) Where a taxpayer is an individual and his income for a taxation year includes income from a business the fiscal period of which does not coincide with the calendar year, if depreciable property acquired for the purpose of gaining or producing income for the business has been disposed of,

(a) for greater certainty, a reference in subsection (1) or (2) to a "taxation year" or "the year" shall be read as a reference to a "fiscal period" or "the period"; and

(b) a reference in subsection (1) or (2) to "his income" shall be read as a reference to "his income from the business".

(3). Subsection 20(3)

Insurance  
and com-  
pensation  
proceeds

(4) Where an amount that would otherwise be included in computing the income of a taxpayer for a taxation year (hereinafter referred to as the "initial year") by virtue of this section is

(a) an amount payable, in respect of loss or destruction of property of a prescribed class,

(i) under a policy of insurance, or

(ii) otherwise as compensation for the property so lost or destroyed, or

(b) an amount payable as compensation for property of a prescribed class taken under statutory authority or as the sale price of property sold to a person by whom notice of an intention to take it under statutory authority was given,

(4). Subsection 20(5a), modified

the following rules apply:

(c) the amount shall, to the extent that it has been expended by the taxpayer

(i) in the taxation year immediately following the initial year on acquiring property of the same class,

(ii) in the taxation year immediately following the initial year on acquiring, if the property so lost, destroyed, taken or sold was a building, a building of a prescribed class, or

(iii) within a time certified by the Minister of Industry, Trade and Commerce to be a reasonable time following the initial year, on acquiring, if the property so lost, destroyed, taken or sold was a vessel, a vessel of a prescribed class,

not be included in computing the income of the taxpayer for the initial year; and

(d) the amount shall, to the extent that it has not been included in computing the income of the taxpayer for the initial year, be deemed to be proceeds of a disposition made,

(i) in the case of a vessel, in the taxation year in which it is in whole or in part expended in accordance with paragraph (c), but only to the extent that it is so expended in that year and only if such year is within the time certified by the Minister of Industry, Trade and Commerce under subparagraph (c)(iii), and

(ii) in the case of any other property, in the taxation year immediately following the initial year

of depreciable property of the taxpayer of the same class as the property so acquired.

(c). Paragraph 20(5a)(a)

(d). Paragraph 20(5a)(b)

Transferred  
property

(5) Where depreciable property of a taxpayer that was included in a prescribed class (hereinafter in this subsection referred to as the "former class") has been transferred to another prescribed class (hereinafter in this subsection referred to as the "other class"), for the purposes of paragraph (21)(f)

(5). Subsection 20(5b)

*Subsection 13(5)*

(a) there shall be added to the capital cost to the taxpayer of depreciable property of the former class acquired before the transfer, the greater of

(i) the amount, if any, by which the capital cost to the taxpayer of the transferred property exceeds the undepreciated capital cost to him of depreciable property of the former class immediately before the transfer, and

(ii) the aggregate of all amounts that would have been allowed to the taxpayer in respect of the transferred property, if it had been a prescribed class, at the rate that was allowed to him in respect of property of the former class under regulations made under paragraph 20(1)(a) in computing income for the taxation years before the transfer; and

(b) there shall be added to the total depreciation allowed to the taxpayer for property of the other class the greater of the amounts determined under subparagraphs (a)(i) and (ii).

Misclassified  
property

(6) Where, in calculating the amount of a deduction allowed to a taxpayer under regulations made under paragraph 20(1)(a) in respect of depreciable property of the taxpayer of a prescribed class, there has been added to the capital cost to the taxpayer of depreciable property of that class the capital cost of depreciable property (hereinafter in this subsection referred to as "added property") of another prescribed class, for the purpose of this section and regulations made under paragraph 20(1)(a) the added property shall, if the Minister so directs with reference to any taxation year for which, within the time specified in paragraph 152(4)(a) or (b), the Minister may make any reassessment or additional assessment or assess tax, interest or penalties under this Part as the circumstances require, be deemed to have been property of the first-mentioned class and not of the other class at all

(7). Subsection 20(5c)



times before the commencement of that year and, except to the extent that that property or any part thereof has been disposed of by the taxpayer before the commencement of that year, to have been transferred from the first-mentioned class to the other class at the commencement of that year.

Rules  
applicable

(7) For the purpose of this section and any regulations made under paragraph 20(1)(a) the following rules apply:

(a) where a taxpayer, having acquired property for the purpose of gaining or producing income therefrom or for the purpose of gaining or producing income from a business, has commenced at a later time to use it for some other purpose, he shall be deemed to have disposed of it at that later time at its fair market value at that time;

(b) where a taxpayer, having acquired property for some other purpose, has commenced at a later time to use it for the purpose of gaining or producing income therefrom, or for the purpose of gaining or producing income from a business, he shall be deemed to have acquired it at that later time at its fair market value at that time;

(c) where property has, since it was acquired by a taxpayer, been regularly used in part for the purpose of gaining or producing income therefrom or for the purpose of gaining or producing income from a business and in part for some other purpose, the taxpayer shall be deemed to have acquired, for the purpose of gaining or producing income, the proportion of the property that the use regularly made of the property for gaining or producing income is of the whole use regularly made of the property at a capital cost to him equal to the same proportion of the capital cost to him of the whole property; and, if the property has, in such a case, been disposed of, the proceeds of disposition of the proportion of the property deemed to have been acquired

(7). Subsection 20(6)

(a). Paragraph 20(6)(a)

(b). Paragraph 20(6)(b)

(c). Paragraph 20(6)(e)

## Subsection 13(7)

for gaining or producing income shall be deemed to be the same proportion of the proceeds of disposition of the whole property;

(d) where, at any time after a taxpayer has acquired property, there has been a change in the relation between the use regularly made by him of the property for gaining or producing income and the use regularly made of the property for other purposes,

(i) if the use regularly made by him of the property for the purpose of gaining or producing income has increased, he shall be deemed to have acquired at that time depreciable property of that class at a capital cost equal to the proportion of the fair market value of the property as of that time that the amount of the increase in the use regularly made by him of the property for that purpose is of the whole use regularly made of the property, and

(ii) if the use regularly made of the property for the purpose of gaining or producing income has decreased, he shall be deemed to have disposed at that time of depreciable property of that class and the proceeds of disposition shall be deemed to be an amount equal to the proportion of the fair market value of the property as of that time that the amount of the decrease in the use regularly made by him of the property for that purpose is of the whole use regularly made of the property; and

(e) where a taxpayer has received or is entitled to receive from a government, municipality or other public authority, in respect of or for the acquisition of property, a grant, subsidy or other assistance other than an amount authorized to be paid under an *Appropriation Act* and on terms and conditions approved by the Treasury Board for the purpose of advancing or sustaining the technological capability of Canadian manufacturing or other industry, the capital cost of the property shall be deemed to be

(d). Paragraph 20(6)(f)

(e). Paragraph 20(6)(h)

*Subsection 13(7)*

the capital cost thereof to the taxpayer minus the amount of the grant, subsidy or other assistance.

Property  
disposed of  
after  
ceasing  
business

(8) Where a taxpayer, after ceasing to carry on a business, has disposed of depreciable property of the taxpayer of a prescribed class that was acquired by him for the purpose of gaining or producing income from the business and that was not subsequently used by him for some other purpose, in applying subsection (1) in respect of the disposition of that property a reference in that subsection to a "taxation year" shall, notwithstanding anything in subsection (3), not be read as a reference to a fiscal period.

(8). New

"Business"  
defined

(9) In applying paragraphs (7)(a) to (d) in respect of a non-resident taxpayer, a reference to a "business" shall be read as a reference to a business wholly carried on in Canada or such part of a business as is wholly carried on in Canada.

(9). Subsection 20(7)

Deemed  
capital cost  
of certain  
property

(10) For the purposes of this Act, where a taxpayer has, after December 3, 1970 and before April 1, 1972, acquired prescribed property

(10). Subsection 20(7a)

(a) for use in a prescribed manufacturing or processing business carried on by him, and

(b) that has not been used for any purpose whatever before it was acquired by him,

the taxpayer shall be deemed to have acquired that property at a capital cost to him equal to 115% of the amount that, but for this subsection and section 21, would have been the capital cost to him of that property.



## Section 13

Deduction  
in respect  
of automo-  
bile used in  
performance  
of duties

(11) Any deduction made under paragraph 8(1)(j) of this Act or subsection 11(11) of *The 1948 Income Tax Act* shall be deemed, for the purposes of this section, to have been made under regulations made under paragraph 20(1)(a).

Application  
of para.  
20(1)(cc)

(12) Where, in computing the income of a taxpayer for a taxation year, an amount has been deducted under paragraph 20(1)(cc) or the taxpayer has elected under subsection 20(9) to make a deduction in respect of an amount that would otherwise have been deductible under that paragraph, the amount shall, if it was a payment on account of the capital cost of depreciable property, be deemed to have been allowed to the taxpayer in respect of the property under regulations made under paragraph 20(1)(a) in computing the income of the taxpayer

(a) for the year, or

(b) for the year in which the property was acquired,

whichever is the later.

Where  
deduction  
under  
*Canadian  
Vessel  
Construc-  
tion  
Assistance  
Act*

(13) Where a deduction has been made under the *Canadian Vessel Construction Assistance Act* for any year, subsection (1) is applicable in respect of the prescribed class created by that Act or any other prescribed class to which the vessel may have been transferred.

Conversion  
cost of  
vessel  
deemed  
prescribed  
class

(14) For the purposes of this section and any regulations made under paragraph 20(1)(a), a vessel in respect of which any conversion cost is incurred after March 23, 1967 shall, to the extent of the conversion cost, be deemed to be included in a separate prescribed class.

(11). Subsection 11(11a)

(12). Subsection 20(10)

(13). Subsection 20(9)

(14). Subsection 20(11)

## Section 13

Subsection  
(1) and  
subdivision c  
not appli-  
cable in  
certain  
cases

(15) Where a vessel owned by a taxpayer on January 1, 1966 or constructed pursuant to a construction contract entered into by the taxpayer prior to 1966 and not completed by that date is disposed of by the taxpayer before 1974,

(15). Subsection 20(12), modified

(a) subsection (1) and subdivision c do not apply to the proceeds of disposition

(i) if an amount at least equal to the proceeds of disposition is used by the taxpayer, before 1974 and during the taxation year of the taxpayer in which the vessel is disposed of or within 4 months from the end of that taxation year, under conditions satisfactory to the Minister of Industry, Trade and Commerce, either for replacement or to incur any conversion cost with respect to a vessel owned by the taxpayer, or

(ii) if the Minister of Industry, Trade and Commerce certifies that the taxpayer has, on satisfactory terms, deposited

(A) on or before the day on which he is required to file a return of his income for the taxation year in which the vessel was disposed of, or

(B) on or before such day subsequent to the day referred to in clause (A), as the Minister of Industry, Trade and Commerce may specify in respect of the taxpayer,

an amount at least equal to the tax that would, but for this subsection, be payable by the taxpayer under this Part in respect of the proceeds of disposition, or satisfactory security therefor, as a guarantee that the proceeds of disposition will be used before 1974 for replacement; and

(b) the taxpayer may, within the time prescribed for the filing of a return of his income for the taxation year in which the vessel was disposed of, elect to have the vessel constituted a prescribed class, or, if any conversion cost in respect of the vessel has been included in a separate prescribed class, have it transferred to that class, and, if he so elects, the vessel shall be deemed to have been so transferred immediately before

the disposition thereof but this paragraph does not apply unless the proceeds of disposition of the vessel exceed the amount that would be the undepreciated capital cost of property of the class to which it would be so transferred.

Election in respect of proceeds of disposition of vessel

(16) Where a vessel owned by a taxpayer is disposed of by him, he may, if subsection (15) does not apply to the proceeds of disposition or if the taxpayer does not make an election under paragraph (15)(b), within the time prescribed for the filing of a return of his income for the taxation year in which the vessel is disposed of, elect to have the proceeds that would be included in computing his income for the year by virtue of this Part treated as proceeds of disposition of property of another prescribed class that includes a vessel owned by him.

(16). Subsection 20(13), modified

Prescribed class constituted by conversion cost deemed part of class constituted by vessel on disposition

(17) Where a separate prescribed class has been constituted either under this Act or the *Canadian Vessel Construction Assistance Act* by virtue of the conversion of a vessel owned by a taxpayer and the vessel is disposed of by him, if no election is made under paragraph (15)(b) the separate prescribed class constituted by virtue of the conversion shall be deemed to have been transferred to the class in which the vessel was included immediately before the disposition thereof.

(17). Subsection 20(14)

Reassessments

(18) Notwithstanding any other provision of this Act, where a taxpayer has

(a) expended an amount as described in subparagraph (4)(c)(iii), or

(18). Subsection 20(15), modified



## Subsection 13(18)

(b) made an election under paragraph (15)(b) with respect to a vessel and the proceeds of disposition of the vessel have been used before 1974 for replacement under conditions satisfactory to the Minister of Industry, Trade and Commerce,

such reassessments of tax, interest or penalties shall be made as are necessary to give effect to subsections (4) and (15).

Disposition  
of deposit

(19) All or any part of a deposit made under subparagraph (15)(a)(ii) or under the *Canadian Vessel Construction Assistance Act* may be paid out to or on behalf of any person who, under conditions satisfactory to the Minister of Industry, Trade and Commerce and as a replacement for the vessel disposed of, acquires a vessel before 1974

(a) that was constructed in Canada and is registered in Canada or is registered under conditions satisfactory to the Minister of Industry, Trade and Commerce in any country or territory to which the British Commonwealth Merchant Shipping Agreement (signed at London on December 10, 1931) applies, and

(b) in respect of the capital cost of which no allowance has been made to any other taxpayer under this Act or the *Canadian Vessel Construction Assistance Act*,

or incurs any conversion cost with respect to a vessel owned by that person that is registered in Canada or is registered under conditions satisfactory to the Minister of Industry, Trade and Commerce in any country or territory to which the said British Commonwealth Merchant Shipping Agreement applies, but the ratio of the amount paid out to the amount of the deposit shall not exceed the ratio of the capital cost to him of the vessel or the conversion cost to him of the vessel, as the case may be, to the proceeds of disposition of the vessel disposed of; and any deposit or part of a deposit not so paid out before 1974 or not paid out pursuant to subsection (20) shall be paid to the Receiver General of Canada and form part of the Consolidated Revenue Fund.

(19). Subsection 20(16)

*Section 13*

Idem

(20) Notwithstanding any other provision of this section, where a deposit was made by a taxpayer under subparagraph (15)(a)(ii) and the proceeds of disposition in respect of which the deposit was made are not used by any person before 1974 under conditions satisfactory to the Minister of Industry, Trade and Commerce as a replacement for the vessel disposed of,

(a) to acquire a vessel described in paragraphs (19)(a) and (b), or

(b) to incur any conversion cost with respect to a vessel owned by that person that is registered in Canada or is registered under conditions satisfactory to the Minister of Industry, Trade and Commerce in any country or territory to which the British Commonwealth Merchant Shipping Agreement applies,

the Minister of Industry, Trade and Commerce may refund to the taxpayer the deposit, or the part thereof not paid out to the taxpayer under subsection (19), as the case may be, in which case there shall be added, in computing the income of the taxpayer for the taxation year of the taxpayer in which the vessel was disposed of, that proportion of the amount that would have been included in computing his income for the year by virtue of this Part had the deposit not been made under subparagraph (15)(a)(ii) that the portion of the proceeds of disposition not so used before 1974 as such a replacement is of the proceeds of disposition; and notwithstanding any other provision of this Act such reassessments of tax, interest or penalties shall be made as are necessary to give effect to this subsection.

(20). Subsection 20(17)

Definitions

(21) In this section and any regulations made under paragraph 20(1)(a),

(21). Subsection 20(5)

*Subsection 13(21)*

|                           |   |                              |
|---------------------------|---|------------------------------|
| "Conversion"              | (a) "conversion", in respect of a vessel, means a conversion or major alteration in Canada by a taxpayer in accordance with plans approved in writing by the Minister of Industry, Trade and Commerce for the purposes of this Act and "conversion cost" means the cost of a conversion as determined by the Minister of Industry, Trade and Commerce;  | (a). Paragraph 20(5)(aa)     |
| "Depreciable property"    | (b) "depreciable property" of a taxpayer as of any time in a taxation year means property in respect of which the taxpayer has been allowed, or is entitled to, a deduction under regulations made under paragraph 20(1)(a) in computing income for that or a previous taxation year;   | (b). Paragraph 20(5)(a)      |
| "Disposition of property" | (c) "disposition of property" includes any transaction or event entitling a taxpayer to proceeds of disposition of property;  | (c). Paragraph 20(5)(b)      |
| "Proceeds of disposition" | (d) "proceeds of disposition" of property includes <ul style="list-style-type: none"> <li>(i) the sale price of property that has been sold,</li> <li>(ii) compensation for property unlawfully taken,</li> <li>(iii) compensation for property destroyed and any amount payable under a policy of insurance in respect of loss or destruction of property,</li> <li>(iv) compensation for property taken under statutory authority or the sale price of property sold to a person by whom notice of an intention to take it under statutory authority was given,</li> <li>(v) compensation for property injuriously affected, whether lawfully or unlawfully or under statutory authority or otherwise,</li> </ul> | (d). Paragraph 20(5)(c) Mod. |



(vi) compensation for property damaged and any amount payable under a policy of insurance in respect of damage to property, except to the extent that such compensation or amount, as the case may be, has within a reasonable time after the damage been expended on repairing the damage,

(vii) an amount by which the liability of a taxpayer to a mortgagee is reduced as a result of the sale of mortgaged property under a provision of the mortgage, plus any amount received by the taxpayer out of the proceeds of such sale, and

(viii) any amount included in computing a taxpayer's proceeds of disposition of the property by virtue of paragraph 79(c);

(e) "total depreciation" allowed to a taxpayer before any time for property of a prescribed class means the aggregate of all amounts allowed to the taxpayer in respect of property of that class under regulations made under paragraph 20(1)(a) in computing income for taxation years before that time;

(f) "undepreciated capital cost" to a taxpayer of depreciable property of a prescribed class as of any time means the capital cost to the taxpayer of depreciable property of that class acquired before that time minus the aggregate of

(i) the total depreciation allowed to the taxpayer for property of that class before that time,

(ii) for each disposition before that time of property of the taxpayer of that class, the least of

(A) the proceeds of disposition of the property,

(e). Paragraph 20(5)(d)

(f). Paragraph 20(5)(e), modified

"Total depreciation"

"Undepreciated capital cost"

(B) the capital cost to him of the property, and

(C) the undepreciated capital cost to him of property of that class immediately before the disposition,

(iii) each amount by which the undepreciated capital cost to the taxpayer of depreciable property of that class as of the end of a previous year was reduced by virtue of subsection (2), and

(iv) where the property of that class was acquired by the taxpayer for the purpose of gaining or producing income from a mine and the taxpayer so elects in prescribed manner and within a prescribed time in respect of that property, an amount equal to that portion of the income derived from the operation of the mine that is, by virtue of the provisions of the *Income Tax Application Rules, 1971* relating to income from the operation of new mines, not included in computing income of the taxpayer or any other person; and

(g) "vessel" means a vessel as defined in the *Canada Shipping Act*.

(g). Paragraph 20(5)(f)

"Vessel"

Sale of goodwill and other "nothings"

14. (1) Where, as a result of a transaction occurring after 1971, an amount has become payable to a taxpayer in a taxation year in respect of a business carried on or formerly carried on by him and the consideration given by the taxpayer therefor was such that, if any payment had been made by the taxpayer after 1971 for that consideration, the payment would have been an eligible capital expenditure of the taxpayer in respect of the business, there shall be included in computing the taxpayer's income for the year from the business the amount, if any, by which  $1/2$  of the amount so payable (which  $1/2$  is hereafter in this section referred to as an "eligible capital amount" in respect of the business) exceeds the taxpayer's

14. (1). New

cumulative eligible capital in respect of the business immediately before the amount so payable became payable to the taxpayer.

Amount  
deemed  
payable

(2) Where any amount is, by any provision of this Act, deemed to be a taxpayer's proceeds of disposition of any property disposed of by him at any time, for the purposes of subsection (1) that amount shall be deemed to have become payable to him at that time.

(2). New

Subsequent  
outlays or  
expenses

(3) Where a taxpayer has, during a taxation year but after the latest time at which any amount payable to him (in respect of which he is required by subsection (1) to include an amount in computing his income for the year from a business) became payable to him, made or incurred outlays or expenses that are eligible capital expenditures in respect of the business, notwithstanding subsection (1) and paragraph (5)(a), the following rules apply:

(3). New

(a) if the aggregate of the amounts that would, according to the terms of subsection (1), be included in computing his income for the year from the business is equal to or exceeds his cumulative eligible capital in respect of the business at the end of the year,

(i) the amount to be included in computing his income for the year from the business under subsection (1) is that aggregate minus the amount that would otherwise be his cumulative eligible capital in respect of the business at the end of the year, and

(ii) his cumulative eligible capital in respect of the business at the end of the year is nil; and



*Subsection 14(3)*

(b) if the aggregate of amounts that would, according to the terms of subsection (1), be included in computing his income for the year from the business is less than his cumulative eligible capital in respect of the business at the end of the year,

(i) no amounts shall be included in computing his income for the year from the business under subsection (1), and

(ii) his cumulative eligible capital in respect of the business at the end of the year is the amount thereof otherwise determined minus that aggregate.

References  
to taxation  
years in  
case of  
individuals

(4) Where a taxpayer is an individual and his income for a taxation year includes income from a business the fiscal period of which does not coincide with the calendar year, for greater certainty a reference in this section to a "taxation year" or "year" shall be read as a reference to a "fiscal period" or "period".

(4). New

Definitions  
"Cumula-  
tive eligible  
capital"

(5) In this section,

(a) "cumulative eligible capital" of a taxpayer at any time in respect of a business means

(i)  $\frac{1}{2}$  of the aggregate of the eligible capital expenditures in respect of the business made or incurred by the taxpayer before that time,

minus

(ii) the aggregate of

(A) all amounts each of which is an amount in respect of any taxation year of the taxpayer ending before that time, equal to the amount deducted under paragraph 20(1)(b) in computing the taxpayer's income for that year from the business,

(5). New

*Subsection 14(5)*

(B) for each eligible capital amount in respect of the business that became payable to the taxpayer before that time, the lesser of

1. the eligible capital amount, and
2. the cumulative eligible capital of the taxpayer in respect of the business immediately before the disposition as a result of which the eligible capital amount became payable, and

(C) all amounts by which the cumulative eligible capital of the taxpayer in respect of the business at the end of any taxation year of the taxpayer ending before that time was reduced by virtue of subsection (3); and

(b) "eligible capital expenditure" of a taxpayer in respect of a business means the portion of any outlay or expense made or incurred by him, as a result of a transaction occurring after 1971, on account of capital for the purpose of gaining or producing income from the business, other than any such outlay or expense

(i) in respect of which any amount is or would be, but for any provision of this Act limiting the quantum of any deduction, deductible (otherwise than under paragraph 20(1)(b)) in computing his income from the business, or in respect of which any amount is, by virtue of any provision of this Act other than paragraph 18(1)(b), not deductible in computing such income,

(ii) made or incurred for the purpose of gaining or producing income that is exempt income, or

"Eligible capital expenditure"

(iii) that is the cost of, or any part of the cost of,

(A) tangible property of the taxpayer,

(B) intangible property that is depreciable property of the taxpayer,

(C) property in respect of which any deduction (otherwise than under paragraph 20(1)(b)) is permitted in computing his income from the business or would be so permitted if his income from the business were sufficient for the purpose, or

(D) an interest in, or right to acquire, any property described in any of clauses (A) to (C),

but, for greater certainty and without restricting the generality of the foregoing, does not include any portion of

(iv) any amount paid or payable, as the case may be, to any creditor of the taxpayer as, on account or in lieu of payment of any debt or as or on account of the redemption, cancellation or purchase of any bond or debenture,

(v) where the taxpayer is a corporation, any amount paid or payable, as the case may be, to a person as a shareholder of the corporation, or

(vi) any amount that is the cost of, or any part of the cost of,

(A) an interest in a trust,

(B) an interest in a partnership,

(C) a share, bond, debenture, mortgage, hypothec, note, bill or other similar property, or

(D) an interest in, or right to acquire, any property described in any of clauses (A) to (C).



Appropriation of property to shareholder

15. (1) Where in a taxation year

(a) a payment has been made by a corporation to a shareholder otherwise than pursuant to a *bona fide* business transaction,

(b) funds or property of a corporation have been appropriated in any manner whatever to, or for the benefit of, a shareholder, or

(c) a benefit or advantage has been conferred on a shareholder by a corporation,

otherwise than

(d) by way of a transaction to which section 84 applies,

(e) by the payment of a dividend, or

(f) by conferring on all holders of common shares of the capital stock of the corporation a right to buy additional common shares thereof,

the amount or value thereof shall be included in computing the income of the shareholder for the year.

15. (1). Subsection 8(1), modified

Loan to shareholder

(2) Where a corporation has in a taxation year made a loan to a shareholder, the amount thereof shall be included in computing the income of the shareholder for the year unless

(a) the loan was made

(i) in the ordinary course of its business and the lending of money was part of its ordinary business,

(ii) to an officer or servant of the corporation to enable or assist him to purchase or erect a dwelling house for his own occupation,

(iii) to an officer or servant of the corporation to enable or assist him to purchase from the corporation fully paid shares of the corporation to be held by him for his own benefit, or

(iv) to an officer or servant of the corporation to enable or assist him to purchase an automobile to be used by him in the performance of the duties of his office or employment,

and *bona fide* arrangements were made at the time the loan was made for repayment thereof within a reasonable time, or

(2). Subsection 8(2)

## Subsection 15(2)

(b) the loan was repaid within one year from the end of the taxation year of the corporation in which it was made and it is established, by subsequent events or otherwise, that the repayment was not made as a part of a series of loans and repayments,

and, where the shareholder is a corporation, the amount so included in computing its income for the year shall be deemed to have been received by it as a dividend.

Interest on  
income  
bonds

(3) An annual or other periodic amount paid by a corporation resident in Canada to a taxpayer in respect of an income bond or income debenture shall be deemed to have been received by the taxpayer as a dividend unless the corporation is entitled to deduct the amount so paid in computing its income.

(3). Subsection 8(3), modified

Idem

(4) An annual or other periodic amount paid by a corporation not resident in Canada to a taxpayer in respect of an income bond or income debenture shall be deemed to have been received by the taxpayer as a dividend unless the amount so paid was, under the laws of the country in which the corporation was resident, deductible in computing the amount for the year on which the corporation was liable to pay income or profits tax imposed by the government of that country.

(4). New

Where  
automobile  
made  
available  
to share-  
holder

(5) Where a corporation has made an automobile available to a shareholder in a taxation year for his personal use (whether for his exclusive personal use or otherwise), the amount, if any, by which an amount that would be a reasonable stand-by charge for the automobile for the aggregate number of days in the year during which it was made so available (whether or not it was used by the shareholder) exceeds the aggregate of

(5). New

(a) the amount paid in the year by the shareholder to the corporation for the use of the automobile, and

## Subsection 15(5)

(b) any amount included in computing the shareholder's income for the year by virtue of subsection (1) in respect of the use by him of the automobile in the year,

shall be included in computing his income for the year.

Application of ss. 6(2) (6) Subsection 6(2) is applicable *mutatis mutandis* to subsection (5).

(6). New

Application (7) For greater certainty, subsections (1), (2) and (5) are applicable in computing the income of a shareholder for the purposes of this Part whether or not the corporation was resident or carried on business in Canada.

(7). Subsection 8(4), modified

Income and capital combined 16. (1) Where a payment under a contract or other arrangement can reasonably be regarded as being in part a payment of interest or other payment of an income nature and in part a payment of a capital nature, the part of the payment that can reasonably be regarded as a payment of interest or other payment of an income nature shall, irrespective of when the contract or arrangement was made or the form or legal effect thereof, be included in computing the recipient's income from property.

16. (1). Subsection 7(1)

Obligation issued at discount (2) Where, in the case of a bond, debenture, bill, note, mortgage, hypothec or similar obligation issued after December 20, 1960 and before June 18, 1971 by a person exempt from tax under section 149, a non-resident person not carrying on business in Canada, or a government, municipality or municipal or other public body performing a function of government,

(2). Subsection 7(2), modified

(a) the obligation was issued for an amount that is less than the principal amount thereof,

(b) the interest stipulated to be payable on the obligation, expressed in terms of an annual rate on

(i) the principal amount thereof, if no amount is payable on account of the principal amount before the maturity of the obligation, or



(ii) the amount outstanding from time to time as or on account of the principal amount thereof, in any other case, is less than 5%, and

(c) the yield from the obligation, expressed in terms of an annual rate on the amount for which the obligation was issued (which annual rate shall, if the terms of the obligation or any agreement relating thereto conferred upon the holder thereof a right to demand payment of the principal amount of the obligation or the amount outstanding as or on account of the principal amount thereof, as the case may be, before the maturity of the obligation, be calculated on the basis of the yield that produces the highest annual rate obtainable either on the maturity of the obligation or conditional upon the exercise of any such right) exceeds the annual rate determined under paragraph (b) by more than  $1/3$  thereof,

the amount by which the principal amount of the obligation exceeds the amount for which the obligation was issued shall be included in computing the income of the first owner of the obligation who is a resident of Canada and is not a person exempt from tax under section 149 or a government, for the taxation year of the owner of the obligation in which he became the owner thereof.

Idem

(3) Where, in the case of a bond, debenture, bill, note, mortgage, hypothec or similar obligation issued after June 18, 1971 by a person exempt from tax under section 149, a non-resident person not carrying on business in Canada, or a government, municipality or municipal or other public body performing a function of government,

(a) the obligation was issued for an amount that is less than the principal amount thereof, and

(3). New

(b) the yield from the obligation, expressed in terms of an annual rate on the amount for which the obligation was issued (which annual rate shall, if the terms of the obligation or any agreement relating thereto conferred upon the holder thereof a right to demand payment of the principal amount of the obligation or the amount outstanding as or on account of the principal amount thereof, as the case may be, before the maturity of the obligation, be calculated on the basis of the yield that produces the highest annual rate obtainable either on the maturity of the obligation or conditional upon the exercise of any such right) exceeds  $\frac{4}{3}$  of the interest stipulated to be payable on the obligation, expressed in terms of an annual rate on

(i) the principal amount thereof, if no amount is payable on account of the principal amount before the maturity of the obligation, or

(ii) the amount outstanding from time to time as or on account of the principal amount thereof, in any other case,

the amount by which the principal amount of the obligation exceeds the amount for which the obligation was issued shall be included in computing the income of the first owner of the obligation who is a resident of Canada and is not a person exempt from tax under section 149 or a government, for the taxation year of the owner of the obligation in which he became the owner thereof.

Application  
of ss. (1)

(4) Subsection (1) does not apply to any amount received by a taxpayer in a taxation year

(a) as an annuity payment;

(b) as a refund of premiums or contributions paid by the holder of a life annuity contract, as defined by regulation, upon the death of such holder; or

(4). Subsection 7(5)

(c) in satisfaction of the rights of the taxpayer under a life annuity contract, as defined by regulation, that was entered into before June 14, 1963 except to the extent that the amount so received, exceeds the aggregate of

- (i) the value of his rights under the contract on the second anniversary date of the contract to occur after October 22, 1968, and
- (ii) the aggregate of premiums paid by the taxpayer under the contract after the said second anniversary date.

Idem

(5) Subsection (1) does not apply in any case where subsection (2) or (3) applies.

(5). New

Loan to non-resident person

17. (1) Where a corporation resident in Canada has loaned money to a non-resident person and the loan has remained outstanding for one year or longer without interest at a reasonable rate having been included in computing the lender's income, interest thereon, computed at 5% per annum for the taxation year or part of the year during which the loan was outstanding, shall, for the purpose of computing the lender's income, be deemed to have been received by the lender on the last day of each taxation year during all or part of which the loan has been outstanding.

17. Section 19

Exception

(2) Subsection (1) does not apply if a tax has been paid on the amount of the loan under Part XIII.

Further exception

(3) Subsection (1) does not apply if the loan was made to a subsidiary controlled corporation and it is established that the money that was loaned was used in the subsidiary corporation's business for the purpose of gaining or producing income.



### *Deductions*

|                              |   |                                  |
|------------------------------|---|----------------------------------|
| General limitations          | 18. (1) In computing the income of a taxpayer from a business or property no deduction shall be made in respect of  | 18. (1)                          |
| General limitation           | (a) an outlay or expense except to the extent that it was made or incurred by the taxpayer for the purpose of gaining or producing income from the business or property;  | (a). Paragraph 12(1)(a)          |
| Capital outlay or loss       | (b) an outlay, loss or replacement of capital, a payment on account of capital or an allowance in respect of depreciation, obsolescence or depletion except as expressly permitted by this Part;                                      | (b). Paragraph 12(1)(b)          |
| Limitation re exempt income  | (c) an outlay or expense to the extent that it may reasonably be regarded as having been made or incurred for the purpose of gaining or producing exempt income or in connection with property the income from which would be exempt; | (c). Paragraph 12(1)(c)          |
| Annual value of property     | (d) the annual value of property except rent for property leased by the taxpayer for use in his business;   | (d). Paragraph 12(1)(d)          |
| Reserves, etc.               | (e) an amount transferred or credited to a reserve, contingent account or sinking fund except as expressly permitted by this Part;  | (e). Paragraph 12(1)(e)          |
| Payments on discounted bonds | (f) an amount paid or payable as or on account of the principal amount of any obligation described in paragraph 20(1)(f) except as expressly permitted by that paragraph;   | (f). New                         |
| Payments on income bonds     | (g) an amount paid by a corporation as interest or otherwise to holders of its income bonds or income debentures unless the bonds or debentures have been issued or the income provisions thereof have been adopted since 1930        | (g) Paragraph 12(1)(f), modified |
|                              | (i) to afford relief to the debtor from financial difficulties, and   |                                  |

## Subsection 18(1)

(ii) in place of or as an amendment to bonds or debentures that at the end of 1930 provided unconditionally for a fixed rate of interest;

|   |   |                         |
|---|---|-------------------------|
| Personal or living expenses   | (h) personal or living expenses of the taxpayer except travelling expenses (including the entire amount expended for meals and lodging) incurred by the taxpayer while away from home in the course of carrying on his business;  | (h). Paragraph 12(1)(h) |
| Limitation re employer's contribution under supplementary unemployment benefit plan | (i) an amount paid by an employer to a trustee under a supplementary unemployment benefit plan except as permitted by section 145;  | (i) Paragraph 12(1)(ha) |
| Limitation re employer's contribution under deferred profit sharing plan            | (j) an amount paid by an employer to a trustee under a deferred profit sharing plan except as expressly permitted by section 147;   | (j) Paragraph 12(1)(i)  |
| Limitation re employer's contribution under profit sharing plan                     | (k) an amount paid by an employer to a trustee under a profit sharing plan that is not <ul style="list-style-type: none"> <li>(i) an employees profit sharing plan,</li> <li>(ii) a deferred profit sharing plan, or</li> <li>(iii) a registered pension fund or plan; or</li> </ul>  | (k). Paragraph 12(1)(j) |
| Use of recreational facilities and club dues  | (l) an outlay or expense made or incurred by the taxpayer, <ul style="list-style-type: none"> <li>(i) for the use or maintenance of property that is a yacht, a camp, a lodge or a golf course or facility, unless the taxpayer made or incurred the outlay or expense in the ordinary course of his business of providing the property for hire or reward, or</li> </ul> | (l). New                |

*Subsection 18(1)*

(ii) as membership fees or dues (whether initiation fees or otherwise) in any club the main purpose of which is to provide dining, recreational or sporting facilities for its members.

Limitation  
re certain  
interest and  
property  
taxes  
on land

(2) Notwithstanding paragraph 20(1)(c), in computing the taxpayer's income for a taxation year from a business or property, no deduction shall be made in respect of any amount paid or payable by the taxpayer in the year as, on account or in lieu of payment of, or in satisfaction of,

(2). New

(a) interest on borrowed money used to acquire land, or an amount payable by him for land, or

(b) property taxes paid or payable by him in the year in respect of land to a province or to a Canadian municipality,

if, having regard to all the circumstances, including the cost to the taxpayer of the land in relation to his gross revenue, if any, therefrom for that or any previous year, the land cannot reasonably be considered to have been, in that year,

(c) included in the inventory of a business carried on by the taxpayer,

(d) otherwise used in, or held in the course of, carrying on a business carried on by the taxpayer, or

(e) held primarily for the purpose of gaining or producing income of the taxpayer from the land for that year,

except to the extent that the taxpayer's gross revenue, if any, from the land for that year exceeds the aggregate of all other amounts deducted in computing his income from the land for that year.

Meaning of  
"land" in  
ss. (2)

(3) In subsection (2), "land" does not include

(3). New

(a) any property that is a building or other depreciable property affixed to land,



(b) the land subjacent to any property described in paragraph (a), or

(c) such land immediately contiguous to the land described in paragraph (b) as may reasonably be considered to be used in connection with any property described in paragraph (a).

Limitation  
re deduc-  
tion  
of interest  
by certain  
corporations

(4) Notwithstanding any other provision of this Act, in computing the income for a taxation year of a corporation resident in Canada from a business or property, no deduction shall be made in respect of that proportion of any amount otherwise deductible in computing its income for the year in respect of interest paid or payable by it that

(4). New

(a) the amount, if any, by which

(i) the greatest amount that the corporation's outstanding debts to specified non-residents was at any time in the year,

exceeds

(ii) 3 times the aggregate of

(A) the corporation's paid-up capital limit (within the meaning of subsection 89(1)) at the commencement of the year,

(B) the amount that the corporation's designated surplus would be immediately after the commencement of the year, if control of the corporation (within the meaning of Part VII) had been acquired by another corporation at that time,

(C) the corporation's tax-paid undistributed surplus on hand at the commencement of the year,

(D) the corporation's 1971 capital surplus on hand at the commencement of the year, and

(E) the corporation's capital dividend account (within the meaning of subsection 89(1)) immediately after the commencement of the year,

is of

(b) the amount determined under subparagraph (a)(i) in respect of the corporation for the year.

## Section 18

Meaning  
of  
certain  
expres-  
sions in  
ss. (4)

(5) In subsection (4), "outstanding debts to specified non-residents" of a corporation at any particular time in a taxation year means the aggregate of amounts each of which is an amount outstanding at that time as or on account of a debt or other obligation to pay an amount,

(a) that was payable by the corporation to a shareholder of the corporation who was, at any time in the year,

(i) a non-resident owned investment corporation, or

(ii) a person not resident in Canada, if at any time in the year 25% or more of the issued shares of any class of the corporation belonged to that shareholder or to that shareholder and persons with whom that shareholder was not dealing at arm's length, and

(b) on which any amount in respect of interest paid or payable by the corporation is or would be, but for subsection (4), deductible in computing the corporation's income for the year.

Loan  
made on  
condition

(6) Where any loan is made by a taxpayer (in this subsection referred to as the "first lender") to another person on condition that a loan be made by any person (in this subsection referred to as the "subsequent lender") to a corporation resident in Canada, for the purposes of subsections (4) and (5) the lesser of

(a) the amount of the loan so made by the first lender to the other person, and

(b) the amount of the loan so made by the subsequent lender to the corporation,

shall be deemed to be a debt incurred by the corporation to the first lender.

Limitation  
on ap-  
plication  
of  
section 21  
where  
ss. (4)  
applicable

(7) Where

(a) section 21 is applicable in respect of an amount or a part of an amount specified by a corporation resident in Canada in its election under that section that, but for that section, would have been deductible in computing its income for a taxation year, and

(5). New

(6). New

(7). New

(b) subsection (4) is or would be, if this Act were read without reference to section 21, applicable in computing the income of the corporation for the year,

notwithstanding section 21, that proportion of the amount or the part of the amount, as the case may be, that, but for this subsection, would

(c) be added by virtue of section 21 to the capital cost to the corporation of depreciable property acquired by it, or

(d) be deemed by section 21 to be exploration, prospecting and development expenses incurred by it in the year,

as the case may be, that the amount determined under subparagraph (4)(a)(i) in respect of the corporation for the year is of the amount determined under subparagraph (4)(a)(ii) in respect of the corporation for the year, shall not be so added or be so deemed, as the case may be.

Limitation  
re adver-  
tising  
expense

19. (1) In computing income, no deduction shall be made in respect of an otherwise deductible outlay or expense of a taxpayer for advertising space in an issue of a non-Canadian newspaper or periodical dated after December 31, 1965 for an advertisement directed primarily to a market in Canada.

19. (1) Subsection 12A(1)

Idem

(2) An issue or edition of an issue of any newspaper or periodical that is edited in whole or in part in Canada and printed and published in Canada and that was not on April 26, 1965 a Canadian newspaper or periodical shall be deemed, for the purposes of subsection (1), not to be an issue of a non-Canadian newspaper or periodical if

(2). Subsection 12A(2)

(a) throughout the period of 12 months ending April 26, 1965 issues or editions of issues of that publication were being edited in whole or in part in Canada and printed and published in Canada at the usual intervals for issues of that publication and have since that date continued to be so edited, printed and published without interruption



except for a reason other than the cessation of the business of publishing that publication; and

(b) in the case of a periodical, the periodical is similar, in content and in respect of the class of readers to which it is directed, to the issues or editions of that periodical that were throughout the period of 12 months ending April 26, 1965 being edited in whole or in part in Canada and printed and published in Canada.

|                                 |   |                        |
|---------------------------------|---|------------------------|
| Idem                            | (3) Subsection (1) does not apply with respect to an advertisement in a special issue or edition of a newspaper that is edited in whole or in part and printed and published outside Canada if such special issue or edition is devoted to features or news related primarily to Canada and the publishers thereof publish such an issue or edition not more frequently than twice a year.  | (3). Subsection 12A(3) |
| Idem                            | (4) Subsection (1) does not apply with respect to an advertisement in<br>(a) a catalogue, or<br>(b) any publication the principal function of which is the encouragement, promotion or development of the fine arts, letters, scholarship or religion.  | (4). Subsection 12A(4) |
| Definitions<br>"Canadian issue" | (5) In this section,<br>(a) "Canadian issue" means,<br>(i) in relation to a newspaper, an issue, including a special issue,<br>(A) the type of which, other than the type for advertisements or features, is set in Canada,<br>(B) the whole of which, exclusive of any comics supplement, is printed in Canada,<br>(C) that is edited in Canada by individuals resident in Canada, and<br>(D) that is published in Canada, and<br>(ii) in relation to a periodical, an issue, including a special issue,<br>(A) the type of which, other than the type for advertisements, is set in Canada, | (5). Subsection 12A(5) |

- (B) that is printed in Canada,
- (C) that is edited in Canada by individuals resident in Canada, and
- (D) that is published in Canada,

but does not include an issue of a periodical

(E) that is produced or published under a licence granted by a person who produces or publishes issues of a periodical that are printed, edited or published outside Canada, or

(F) the contents of which, excluding advertisements, are substantially the same as the contents of an issue of a periodical, or the contents of one or more issues of one or more periodicals, that was or were printed, edited or published outside Canada;

"Canadian newspaper or periodical"

(b) "Canadian newspaper or periodical" means a newspaper or periodical the exclusive right to produce and publish issues of which is held by one or more of the following:

- (i) a Canadian citizen,
- (ii) a partnership of which at least 3/4 of the members are Canadian citizens and in which interests representing in value at least 3/4 of the total value of the partnership property are beneficially owned by Canadian citizens,
- (iii) an association or society of which at least 3/4 of the members are Canadian citizens,
- (iv) Her Majesty in right of Canada or a province, or a municipality in Canada, or
- (v) a corporation

(A) that is incorporated under the laws of Canada or a province,

(B) of which the chairman or other presiding officer and at least 3/4 of the directors or other similar officers are Canadian citizens, and

(C) of which, if it is a corporation having share capital, at least 3/4 of the shares having full voting rights under all circumstances, and shares representing in the aggregate at least 3/4 of the paid-up capital, are beneficially owned

*Subsection 19(5)*

by Canadian citizens or by corporations other than corporations controlled directly or indirectly by citizens or subjects of a country other than Canada; and

“Issue of a non-Canadian newspaper or periodical”

(c) “issue of a non-Canadian newspaper or periodical” means an issue that is not a Canadian issue of a Canadian newspaper or periodical.

Trust property

(6) Where the right that is held by any person, partnership, association or society described in paragraph (5)(b) to produce and publish issues of a newspaper or periodical is held as property of a trust or estate, the newspaper or periodical is not a Canadian newspaper or periodical within the meaning of this section unless each beneficiary under the trust or estate is a person, partnership, association or society so described.

(6). Subsection 12A(6)

Grace period

(7) Notwithstanding any other provision of this section, where a newspaper or periodical that was at any time after June 30, 1965 a Canadian newspaper or periodical within the meaning of this section subsequently ceases to be such a Canadian newspaper or periodical, the newspaper or periodical shall be deemed to continue to be a Canadian newspaper or periodical within the meaning of this section until the expiration of the twelfth month following the month in which it so ceased to be a Canadian newspaper or periodical.

(7). Subsection 12A(7)

Deductions permitted in computing income from business or property

20. (1) Notwithstanding paragraphs 18(1)(a), (b) and (h), in computing a taxpayer's income for a taxation year from a business or property, there may be deducted such of the following amounts as are wholly applicable to that source or such part of the following amounts as may reasonably be regarded as applicable thereto:

20. (1). Subsection 11(1), modified

Capital cost of property

(a) such part of the capital cost to the taxpayer of property, or such amount in respect of the capital cost to the taxpayer of property, if any, as is allowed by regulation;

(a) Paragraph 11(1)(a)



## Subsection 20(1)

Cumulative  
eligible  
capital  
amount

(b) such amount as the taxpayer may claim in respect of any business, not exceeding 10% of his cumulative eligible capital in respect of the business at the end of the year;

Interest

(c) an amount paid in the year or payable in respect of the year (depending upon the method regularly followed by the taxpayer in computing his income), pursuant to a legal obligation to pay interest on

(i) borrowed money used for the purpose of earning income from a business or property (other than borrowed money used to acquire property the income from which would be exempt or to acquire a life insurance policy),

(ii) an amount payable for property acquired for the purpose of gaining or producing income therefrom or for the purpose of gaining or producing income from a business (other than property the income from which would be exempt or property that is an interest in a life insurance policy), or

(iii) an amount paid to the taxpayer under

(A) an *Appropriation Act* and on terms and conditions approved by the Treasury Board for the purpose of advancing or sustaining the technological capability of Canadian manufacturing or other industry, or

(B) the *Northern Mineral Exploration Assistance Regulations* made under an *Appropriation Act* that provides for payments in respect of the Northern Mineral Grants Program,

or a reasonable amount in respect thereof, whichever is the lesser;

Compound  
interest

(d) an amount paid in the year pursuant to a legal obligation to pay interest on an amount that would be deductible under paragraph (c) if it were paid in the year or payable in respect of the year;

(b). New

(c). Paragraph 11(1)(c)

(d). Paragraph 11(1)(ca)

## Subsection 20(1)

Expense of  
issuing  
shares or  
borrowing  
money

- (e) an expense incurred in the year,
- (i) in the course of issuing or selling shares of the capital stock of the taxpayer, or
  - (ii) in the course of borrowing money used by the taxpayer for the purpose of earning income from a business or property (other than money used by the taxpayer for the purpose of acquiring property the income from which would be exempt),

but not including any amount in respect of

- (iii) a commission or bonus paid or payable to a person to whom the shares were issued or sold or from whom the money was borrowed, or for or on account of services rendered by a person as a salesman, agent or dealer in securities in the course of issuing or selling the shares or borrowing the money, or
- (iv) an amount paid or payable as or on account of the principal amount of the indebtedness incurred in the course of borrowing the money, or as or on account of interest;

Discount  
on certain  
obligations

- (f) an amount paid in the year as the principal amount of any bond, debenture, bill, note, mortgage, hypothec or similar obligation issued by the taxpayer after June 18, 1971 on which interest was stipulated to be payable, to the extent that the amount so paid does not exceed,

- (i) in any case where the obligation was issued for an amount not less than 97% of the principal amount thereof, and the yield from the obligation, expressed in terms of an annual rate on the amount for which the obligation was issued (which annual rate shall, if the terms of the obligation or any agreement relating thereto conferred upon the holder thereof a right to demand payment of the principal amount of the obligation or the amount outstanding as or on account of the principal amount thereof, as the case may be, before the maturity of the obligation, be calculated on the basis of

- (e) Paragraph 11(1)(cb)

- (f). New

the yield that produces the highest annual rate obtainable either on the maturity of the obligation or conditional upon the exercise of any such right) does not exceed  $\frac{4}{3}$  of the interest stipulated to be payable on the obligation, expressed in terms of an annual rate on

(A) the principal amount thereof, if no amount is payable on account of the principal amount before the maturity of the obligation, or

(B) the amount outstanding from time to time as or on account of the principal amount thereof, in any other case,

the amount by which the principal amount of the obligation exceeds the amount for which the obligation was issued, and

(ii) in any other case,  $\frac{1}{2}$  of the amount by which the principal amount of the obligation exceeds the amount for which the obligation was issued;

(g) where the taxpayer is a corporation,

(i) an amount payable in the year as a fee for services rendered by a person as a registrar of or agent for the transfer of shares of the capital stock of the taxpayer or as an agent for the remittance to shareholders of the taxpayer of dividends declared by it,

(ii) an amount payable in the year as a fee to a stock exchange for the listing of shares of the capital stock of the taxpayer, and

(iii) an expense incurred in the year in the course of printing and issuing a financial report to shareholders of the taxpayer or to any other person entitled by law to receive such report;

(g). Paragraph 11(1)(cc)

Share  
transfer  
and other  
fees



## Subsection 20(1)

Certifica-  
tion fee  
paid to  
bank

(h) an amount payable by the taxpayer in the year as a fee to a bank to which the *Bank Act* or the *Quebec Savings Banks Act* applies for the certification of a non-interest-bearing post-dated bill drawn by the taxpayer on the bank and payable not more than 90 days from the date of the certification;

Sale of  
bill

(i) where a bill described in paragraph (h) that was drawn by the taxpayer has been sold by the taxpayer in the year, the amount, if any, by which the principal amount of the bill exceeds the consideration paid by the purchaser to the taxpayer for the bill so sold;

Repayment  
of loan by  
shareholder

(j) such part of any loan repaid by the taxpayer in the year as was by subsection 15(2) required to be included in computing the income of the taxpayer for a previous year (except to the extent that the amount of the loan was deductible from the taxpayer's income for the purpose of computing his taxable income for that previous year), if it is established by subsequent events or otherwise that the repayment was not made as part of a series of loans and repayments;

Combined  
income and  
capital

(k) such part of a payment

(i) repaying borrowed money used for the purpose of earning income from a business or property (other than borrowed money used to acquire property the income from which would be exempt), or

(ii) for property acquired for the purpose of gaining or producing income therefrom or for the purpose of gaining or producing income from a business (other than property the income from which would be exempt),

made by the taxpayer in the year as is by subsection 16(1) required to be included in computing the recipient's income for a taxation year;

(h). Paragraph 11(1)(cd)

(i). Paragraphs 11(1)(ce)

(j). Paragraphs 11(1)(da) and (db)

(k). Paragraph 11(1)(d)

## Subsection 20(1)

(l). Paragraph 11(1)(e)

(m). Paragraph 85B(1)(c)

(n). Paragraph 85B(1)(d)

Reserve for doubtful debts

- (l) a reasonable amount as a reserve for
- (i) doubtful debts that have been included in computing the income of the taxpayer for that year or a previous year, and
  - (ii) doubtful debts arising from loans made in the ordinary course of business by a taxpayer part of whose ordinary business was the lending of money;

Reserve in respect of certain goods and services

- (m) subject to subsection (6), where amounts described in paragraph 12(1)(a) have been included in computing the taxpayer's income from a business for the year or a previous year, a reasonable amount as a reserve in respect of

- (i) goods that it is reasonably anticipated will have to be delivered after the end of the year,
- (ii) services that it is reasonably anticipated will have to be rendered after the end of the year,
- (iii) periods for which rent or other amounts for the possession or use of land or chattels have been paid in advance, or
- (iv) repayments under arrangements or understandings of the class described in subparagraph 12(1)(a)(ii) that it is reasonably anticipated will have to be made after the end of the year on the return or resale to the taxpayer of articles other than bottles;

Reserve for amount not receivable until later year

- (n) where an amount has been included in computing the taxpayer's income from the business for the year or for a previous year in respect of property sold in the course of the business and that amount or a part thereof is not receivable,

- (i) where the property sold is property other than land, until a day that is
    - (A) more than 2 years after the day on which the property was sold, and
    - (B) after the end of the taxation year,
- or

(ii) where the property sold is land, until a day that is after the end of the taxation year,

a reasonable amount as a reserve in respect of such part of the amount so included in computing the income as may reasonably be regarded as a portion of the profit from the sale;

Reserve for  
quadren-  
nial survey

(o) such amount as may be prescribed as a reserve for expenses to be incurred by the taxpayer by reason of quadrennial or other special surveys required under the *Canada Shipping Act*, or the regulations thereunder, or under the rules of any society or association for the classification and registry of shipping approved by the Minister of Transport for the purposes of the *Canada Shipping Act*;

(o). Paragraph 11(1)(ea)

Bad debts

(p) the aggregate of debts owing to the taxpayer

(p). Paragraph 11(1)(f)

(i) that are established by him to have become bad debts in the year, and

(ii) that have (except in the case of debts arising from loans made in the ordinary course of business by a taxpayer part of whose ordinary business was the lending of money) been included in computing his income for the year or a previous year;

Employer's  
contribu-  
tion to  
pension  
fund

(q) an amount paid by the taxpayer in the year or within 120 days from the end of the year to or under a registered pension fund or plan in respect of services rendered by employees of the taxpayer in the year, subject, however, as follows:

(q). Paragraph 11(1)(g), modified

(i) in any case where the amount so paid is the aggregate of amounts each of which is identifiable as a specified amount in respect of an individual employee of the taxpayer, the amount deductible under this paragraph in respect of any one such individual employee is the lesser of the amount so specified in respect of that employee and \$2,500, and



(ii) in any other case, the amount deductible under this paragraph is the lesser of the amount so paid and an amount determined in prescribed manner, not exceeding however \$2,500 multiplied by the number of employees of the taxpayer in respect of whom the amount so paid by the taxpayer was paid by him,

plus such amount as may be deducted as a special payment under paragraph (s);

(r) where a registered pension fund or plan contains a provision under which the taxpayer may provide superannuation or pension benefits for an employee or former employee of the taxpayer by making a lump sum payment to or under the fund or plan in the year in which the employee or former employee

(i) becomes eligible to retire,

(ii) retires or otherwise ceases to be employed by the taxpayer, or

(iii) reaches an age at which the superannuation or pension benefits so provided for become payable or commence to be payable to him,

an amount paid by the taxpayer in the year or within 60 days from the end of the year pursuant thereto as the lump sum in respect of an employee or former employee who, in the year, became eligible to retire, retired or otherwise ceased to be employed by the taxpayer or reached the age referred to in subparagraph (iii) (except to the extent that it is deductible under paragraph (q));

(s) where the taxpayer is an employer, the amount of a special payment made by him in the year on account of an employees' superannuation or pension fund or plan in respect of past services of employees pursuant to a recommendation by a qualified actuary in whose opinion the resources of the fund or plan were required to be augmented by an amount not less than the amount of the special payment to ensure that all the obligations of the fund or plan to the employees may be discharged in full, if the payment was made so that it is irrevocably vested in or for the fund or plan and

(r). Paragraph 11(1)(h)

(s). Subsection 76(1)

Idem

Employer's  
special  
contribution

*Subsection 20(1)*

the payment has been approved by the Minister on the advice of the Superintendent of Insurance, and for greater certainty and without restricting the generality of this paragraph, it is hereby declared that this paragraph is applicable where the resources of a fund or plan were required to be augmented by reason of an increase in the superannuation or pension benefits payable out of or under the fund or plan;

|  |  |  |
|--|--|--|
| Scientific research  | ( <i>t</i> ) such amount in respect of expenditures on scientific research as is permitted by section 37;  | ( <i>t</i> ). Paragraph 11(1)( <i>j</i> )  |
| Patronage dividends  | ( <i>u</i> ) such amounts in respect of payments made by the taxpayer pursuant to allocations in proportion to patronage as are permitted by section 135;  | ( <i>u</i> ). Paragraph 11(1)( <i>n</i> )  |
| Mining taxes   | ( <i>v</i> ) such amount as is allowed by regulation in respect of taxes on income for the year from mining operations;  | ( <i>v</i> ). Paragraph 11(1)( <i>p</i> )  |
| Employer's contribution under profit sharing plan                                | ( <i>w</i> ) an amount paid by the taxpayer to a trustee in trust for employees of the taxpayer or of a corporation with whom the taxpayer does not deal at arm's length, under an employees profit sharing plan as permitted by section 144;  | ( <i>w</i> ). Paragraph 11(1)( <i>r</i> )  |
| Employer's contribution under registered supplementary unemployment benefit plan | ( <i>x</i> ) an amount paid by the taxpayer to a trustee under a registered supplementary unemployment benefit plan as permitted by section 145;   | ( <i>x</i> ). Paragraph 11(1)( <i>s</i> )  |
| Employer's contribution under deferred profit sharing plan                       | ( <i>y</i> ) an amount paid by the taxpayer to a trustee under a deferred profit sharing plan as permitted by subsection 147(8);   | ( <i>y</i> ). Paragraph 11(1)( <i>ta</i> ) |
| Cancellation of lease  | ( <i>z</i> ) an amount that would not otherwise be deductible, paid by the taxpayer in the year to a person with whom he was dealing at arm's length for the cancellation of a lease of property of the taxpayer leased by him to that person; | ( <i>z</i> ). Paragraph 11(1)( <i>y</i> )  |

## Subsection 20(1)

Landscaping  
of grounds

(aa) an amount paid by the taxpayer in the year for the landscaping of grounds around a building or other structure of the taxpayer that is used by him primarily for the purpose of gaining or producing income therefrom or from a business;

(aa). Paragraph 11(1)(z)

One-half  
fees paid  
to invest-  
ment  
counsel

(bb) an amount equal to 1/2 of the fee paid by the taxpayer in the year to a person for advice as to the advisability of purchasing or selling a specific share or security, if that person's principal business is advising others as to the advisability of purchasing or selling specific shares or securities;

(bb). Subsections 11(13) and (14)

Expenses  
of repre-  
sentation

(cc) an amount paid by the taxpayer in the year as or on account of expenses incurred by him in making any representation relating to a business carried on by him,

(cc). Paragraph 11(1)(aa)

(i) to the government of a country, province or state or to a municipal or public body performing a function of government in Canada, or

(ii) to an agency of a government or of a municipal or public body referred to in subparagraph (i) that had authority to make rules, regulations or by-laws relating to the business carried on by the taxpayer,

including any representation for the purpose of obtaining a licence, permit, franchise or trade mark relating to the business carried on by the taxpayer;

Investiga-  
tion of  
site

(dd) an amount paid by the taxpayer in the year for investigating the suitability of a site for a building or other structure planned by the taxpayer for use in connection with a business carried on by him; and

(dd). Paragraph 11(1)(ab)

Utilities  
service  
connection

(ee) an amount paid by the taxpayer in the year to a person (other than a person with whom he was not dealing at arm's length) for the purpose of making a service connection to his place of business for the supply, by means of wires, pipes or conduits, of electricity, gas, telephone service, water or sewers supplied by such person, to the extent that the amount so paid was not paid

(ee). Subsection 11(15)



*Subsection 20(1)*

- (i) to acquire property of the taxpayer, or
- (ii) as consideration for the goods or services for the supply of which the service connection was undertaken or made.

Borrowed  
money

- (2) For the purposes of paragraph (1)(c), where a person has borrowed money in consideration of a promise by him to pay a larger amount and to pay interest on the larger amount,
- (a) the larger amount shall be deemed to be the amount borrowed, and
  - (b) where the amount actually borrowed has been used in whole or in part for the purpose of earning income from a business or property, the proportion of the larger amount that the amount actually so used is of the amount actually borrowed shall be deemed to be the amount so used.

Idem

- (3) For greater certainty, it is hereby declared that where a taxpayer has used borrowed money
- (a) to repay money previously borrowed, or
  - (b) to pay an amount payable for property described in subparagraph (1)(c)(ii) previously acquired,

the borrowed money shall, for the purposes of section 21 and paragraph (1)(c) or (k), be deemed to have been used for the purpose for which the money previously borrowed was used or was deemed by this subsection to have been used, or to acquire the property in respect of which the said amount was so payable, as the case may be.

Uncol-  
lectable  
portion of  
proceeds  
of dis-  
position  
of  
depreciable  
property

- (4) Where an amount that is owing to a taxpayer as or on account of the proceeds of disposition of depreciable property of the taxpayer of a prescribed class is established by him to have become a bad debt in a taxation

## Subsection 20(4)

year, there may be deducted in computing his income for the year the lesser of

- (a) the amount so owing to him, and
- (b) the amount, if any, by which the capital cost to him of that property exceeds the aggregate of the amounts, if any, realized by him on account of the proceeds of disposition.

Sale of  
agree-  
ment for  
sale of  
mortgage  
included  
in pro-  
ceeds  
of  
dis-  
position

(5) Where depreciable property of a taxpayer has, in a taxation year, been disposed of to a person with whom the taxpayer was dealing at arm's length, and the proceeds of disposition include an agreement for sale of or mortgage or hypothec on land that the taxpayer has, in a subsequent taxation year, sold to a person with whom he was dealing at arm's length, there may be deducted in computing the income of the taxpayer for the subsequent year an amount equal to the lesser of

- (a) the amount, if any, by which the principal amount of the agreement for sale, mortgage or hypothec outstanding at the time of the sale exceeds the consideration paid by the purchaser to the taxpayer for the agreement for sale, mortgage or hypothec, and
- (b) the amount determined under paragraph (a) less the amount, if any, by which the proceeds of disposition of the depreciable property exceed the capital cost to the taxpayer of that property.

(5). Subsection 11(3e)

Special  
reserves

(6) Where an amount is deductible in computing income for a taxation year under paragraph (1)(m) as a reserve in respect of

- (a) articles of food or drink that it is reasonably anticipated will have to be delivered after the end of the year, or
- (b) transportation that it is reasonably anticipated will have to be provided after the end of the year,

there shall be substituted for the amount determined thereunder an amount not exceeding the aggregate of amounts included in computing the taxpayer's income from the

(6). Subsection 85B(3)

## Subsection 20(6)

business for the year that were received or receivable (depending on the method regularly followed by the taxpayer in computing his profit) in the year in respect of

(c) articles of food or drink not delivered before the end of the year, or

(d) transportation not provided before the end of the year,

as the case may be.

Exception

(7) Paragraph (1)(m) does not apply to allow a deduction

(a) as a reserve in respect of guarantees, indemnities or warranties, or

(b) in computing the income of a taxpayer for a taxation year from a business in any case where the taxpayer's income for the year from that business is computed in accordance with the method authorized by subsection 28(1).

(7). Subsection 85B(4) and (6A)

No deduction in respect of property in certain circumstances

(8) Paragraph (1)(n) does not apply to allow a deduction in computing the income of a taxpayer for a taxation year from a business in respect of property sold in the course of the business where the taxpayer ceases to be a resident of Canada or becomes exempt from tax under any provision of this Part at any time in the year or in the immediately following year.

(8). Subsection 85B(6b)

Application of para. 20(1)(cc)

(9) In lieu of making any deduction of an amount permitted by paragraph (1)(cc) in computing his income for a taxation year from a business, a taxpayer may, if he so elects in prescribed manner, make a deduction of 1/10 of that amount in computing his income for that taxation year and a like deduction in computing his income for each of the 9 immediately following taxation years.

(9). Subsection 11(17)

Convention expenses

(10) Notwithstanding paragraph 18(1)(b), there may be deducted in computing a taxpayer's income for a taxation year from a business an amount paid by the taxpayer in the year as or on account of expenses incurred by him in attending, in connection with the business, not more than two conventions held

(10). Paragraph 11(1)(ia), modified



during the year by a business or professional organization at a location that may reasonably be regarded as consistent with the territorial scope of that organization.

Foreign  
taxes on  
income  
from  
property  
exceeding  
15%

(11) In computing the income of an individual from a property for a taxation year after 1975 that is income from a source outside Canada, there may be deducted the amount, if any, by which,

(11). New

(a) such part of any income or profits tax paid by him to the government of a country other than Canada for the year as may reasonably be regarded as having been paid in respect of an amount that has been included in computing his income for the year from the property,

exceeds

(b) 15% of the amount referred to in paragraph (a).

Foreign  
state  
income  
taxes

(12) In computing the income of a taxpayer for a taxation year from a business carried on by him in a country other than Canada, there may be deducted the amount, if any, of any income or profits taxes paid to the government of a state, province or other political subdivision of that country to the extent that such taxes

(12). New

(a) were deductible under the laws of that country in computing the amount for the year on which the taxpayer is liable to pay income or profits tax imposed by the government of that country, and

(b) may reasonably be regarded as having been paid in respect of the income of the taxpayer for the year from that business.

Dividend  
on share  
from  
foreign  
affiliate  
of taxpayer

(13) In computing the income for a taxation year of a taxpayer resident in Canada, there may be deducted such amount in respect of a dividend received by him in the year on a share owned by him of the capital stock of a foreign affiliate of the taxpayer as is provided by subdivision i.

(13). New

## Section 20

(14). Section 19A

Accrued  
bond  
interest

(14) Where, by virtue of an assignment or other transfer of a bond, debenture or similar security (other than an income bond or an income debenture), the transferee has become entitled to interest in respect of a period commencing before the time of transfer and ending after that time that is not payable until after the time of transfer, an amount equal to that proportion of the interest that the number of days in the portion of the period that preceded the day of transfer is of the number of days in the whole period

(a) shall be included in computing the transferor's income for the taxation year in which the transfer was made, and

(b) may be deducted in computing the transferee's income for a taxation year in the computation of which there has been included

(i) the full amount of the interest under section 12, or

(ii) a portion of the interest under paragraph (a).

Cost of  
borrowed  
money

21. (1) Where in a taxation year a taxpayer has acquired property in respect of which he is entitled to a deduction under regulations made under paragraph 20(1)(a) in computing his income for that taxation year (in this section referred to as "depreciable property"), if he so elects in prescribed manner on or before the day on or before which he is required by section 150 to file his return of income for the year,

(a) in computing his income for the year and for such of the 3 immediately preceding taxation years as the taxpayer had, if any, paragraphs 20(1)(c), (d) and (e) do not apply to the amount or to the part of the amount specified by him in his election that, but for this subsection, would have been deductible in computing his income (other than exempt income) for the year and for those immediately preceding years, if any, by virtue of those paragraphs in respect of borrowed money used to acquire the depreciable property or the amount payable for the depreciable property acquired by him; and

21. (1). Subsection 85J(1)

## Subsection 21(1)

(b) the amount or the part of the amount, as the case may be, described in paragraph (a) shall be added to the capital cost to him of the depreciable property so acquired by him.

(2) Where in a taxation year a taxpayer has used borrowed money for the purpose of exploration, prospecting or development, and the expenses incurred by him in respect of the exploration, prospecting and development are deductible in computing his income for the year by virtue of section 66 or would be so deductible by virtue of that section if the taxpayer had sufficient income for that year to permit the deduction, if he so elects in prescribed manner on or before the day on or before which he is required by section 150 to file his return of income for the year,

(a) in computing his income for the year and for such of the 3 immediately preceding taxation years as the taxpayer had, if any, paragraphs 20(1)(c), (d) and (e) do not apply to the amount or to the part of the amount specified by him in his election that, but for this subsection, would have been deductible in computing his income (other than exempt income) for the year and for those immediately preceding years, if any, by virtue of those paragraphs in respect of borrowed money used for the exploration, prospecting and development; and

(b) the amount or the part of the amount, as the case may be, described in paragraph (a) shall be deemed to be exploration, prospecting and development expenses incurred by him in the year.

(2). Subsection 85J(2)

(3) In computing the income of a taxpayer for a taxation year, where the taxpayer

(a) in any preceding year made an election under subsection (1) in respect of borrowed money used to acquire depreciable property or an amount payable for depreciable property acquired by him, and

(3). Subsection 85J(3)

Borrowed money used for exploration, prospecting and development

Idem



*Subsection 21(3)*

(b) in each taxation year, if any, after that preceding year and before the taxation year, made an election under this subsection covering the total amount that, but for this subsection, would have been deductible in computing his income (other than exempt income) for each such year by virtue of paragraphs 20(1)(c), (d) and (e) in respect of the borrowed money used to acquire the depreciable property or the amount payable for the depreciable property acquired by him,

if he so elects in prescribed manner on or before the day on or before which he is required by section 150 to file his return of income for the year, paragraphs 20(1)(c), (d) and (e) do not apply to the amount or to the part of the amount specified by him in his election that, but for this subsection, would have been deductible in computing his income (other than exempt income) for the year by virtue of those paragraphs in respect of the borrowed money used to acquire the depreciable property or the amount payable for the depreciable property acquired by him, and the said amount or part of the amount, as the case may be, shall be added to the capital cost to him of the depreciable property so acquired by him.

(4) In computing the income of a taxpayer for a taxation year, where the taxpayer

(a) in any preceding year made an election under subsection (2) in respect of borrowed money used for the purpose of exploration, prospecting or development, and

(b) in each taxation year, if any, after that preceding year and before the taxation year, made an election under this subsection covering the total amount that, but for this subsection, would have been deductible in computing his income (other than exempt income) for each such year by virtue of paragraphs 20(1)(c), (d) and (e) in respect of the borrowed money used for the exploration, prospecting and development,

(4). Subsection 85J(4)

## Subsection 21(4)

if he so elects in prescribed manner on or before the day on or before which he is required by section 150 to file his return of income for the year, paragraphs 20(1)(c), (d) and (e) do not apply to the amount or to the part of the amount specified by him in his election that, but for this subsection, would have been deductible in computing his income (other than exempt income) for the year by virtue of those paragraphs in respect of the borrowed money used for the exploration, prospecting and development, and the said amount or part of the amount, as the case may be, shall be deemed to be exploration, prospecting and development expenses incurred by him in the year.

Reassess-  
ments

(5) Notwithstanding any other provision of this Act, where a taxpayer has made an election in accordance with the provisions of subsection (1) or (2), such reassessments of tax, interest or penalties shall be made as are necessary to give effect thereto.

(5). Subsection 85J(5)

*Ceasing to carry on business*

Sale of  
accounts  
receivable

22. (1) Where a person who has been carrying on a business has, in a taxation year, sold all or substantially all the property used in carrying on the business, including the debts that have been or will be included in computing his income for that year or a previous year and that are still outstanding, and including the debts arising from loans made in the ordinary course of his business if part of his ordinary business was the lending of money and that are still outstanding, to a purchaser who proposes to continue the business which the vendor has been carrying on, if the vendor and the purchaser have executed jointly an election in

22. (1). Subsection 85D(1)

prescribed form to have this section apply, the following rules are applicable:

- (a) there may be deducted in computing the vendor's income for the taxation year an amount equal to the difference between the face value of the debts so sold (other than debts in respect of which the vendor has made deductions under paragraph 20(1)(p)), and the consideration paid by the purchaser to the vendor for the debts so sold;
- (b) an amount equal to the difference described in paragraph (a) shall be included in computing the purchaser's income for the taxation year;
- (c) the debts so sold shall be deemed, for the purposes of paragraphs 20(1)(l) and (p), to have been included in computing the purchaser's income for the taxation year or a previous year but no deduction may be made by the purchaser under paragraph 20(1)(p) in respect of a debt in respect of which the vendor has previously made a deduction; and
- (d) each amount deducted by the vendor in computing income for a previous year under paragraph 20(1)(p) in respect of any of the debts so sold shall be deemed, for the purpose of paragraph 12(1)(i), to have been so deducted by the purchaser.

Statement  
by vendor  
and  
purchaser

(2) An election executed for the purposes of subsection (1) shall contain a statement by the vendor and the purchaser jointly as to the consideration paid for the debts sold by the vendor to the purchaser and that statement shall, as against the Minister, be binding upon the vendor and the purchaser in so far as it may be relevant in respect of any matter arising under this Act.

(2). Subsection 85D(2)

Sale of  
inventory

23. (1) Where, upon or after disposing of or ceasing to carry on a business or a part of a business, a taxpayer has sold all or any part of the property that was included in the inventory of the business, the property so sold shall, for the purposes of this Part, be deemed to have

23. (1). Subsection 85E(1)



been sold by him in the course of carrying on the business.

Agreement  
as to  
price  
paid by  
vendor and  
purchaser

(2) Where a person who has been carrying on a business has sold all or part of the property that was included in the inventory of the business (whether or not he has disposed of or ceased to carry on that business or a part of that business) to a person who has used all or part of the property so sold as inventory of a business carried on or to be carried on by the purchaser, and the amount of the consideration paid by the purchaser is, in part, consideration for the property so sold and, in part, consideration for something else, the following rules are applicable:

(a) such part of the consideration as the vendor and the purchaser have, in writing, agreed to be the price paid for the property so sold shall be deemed, both for the purpose of computing income from the business of the vendor and for the purpose of computing income from the business of the purchaser, to be the price so paid; and

(b) where an agreement as contemplated by paragraph (a) has not been filed with the Minister within 60 days after notice in writing by the Minister has been forwarded to the vendor and the purchaser that such an agreement is required for the purpose of any assessment of tax under this Part, such part of the consideration paid as is fixed by the Minister shall be deemed to be the price agreed upon by them as the price paid for the property so sold.

Reference  
to property  
included  
in inven-  
tory

(3) A reference in this section to property that was included in the inventory of a business shall be deemed to include a reference to property that would have been so included if the income from the business had not been computed in accordance with the method authorized by subsection 28(1) or paragraph 34(1)(d).

Ceasing to  
carry on  
business

24. (1) Notwithstanding paragraph 18(1)(b), where a taxpayer has ceased to carry on a business, in computing his income for his

(2). Subsection 85E(2)

(3). Subsection 85E(3)

24. (1). New

taxation year in which he so ceased to carry on the business,

(a) there shall be deducted the amount of his cumulative eligible capital in respect of the business at the time he so ceased to carry on the business;

(b) no amount is deductible by virtue of paragraph 20(1)(b) in respect of the business;

(c) notwithstanding paragraph 14(5)(a), his cumulative eligible capital in respect of the business immediately after the time he so ceased to carry on the business shall be deemed to be nil; and

(d) for the purposes of subsection 14(1), section 14 shall be read without reference to subsection (4) thereof.

(2) Notwithstanding subsection (1), where an individual has ceased to carry on a business and thereafter his spouse, or a corporation controlled directly or indirectly in any manner whatever by him, has carried on the business,

(a) in computing the individual's income for his taxation year in which he so ceased to carry on the business, the provisions of subsection (1) shall be read without reference to paragraph (a) thereof and as if the reference in paragraph (c) thereof to "the time he so ceased to carry on the business" were read as a reference to "the end of the taxation year in which he so ceased to carry on the business"; and

(b) in computing the cumulative eligible capital in respect of the business of the spouse or the corporation, as the case may be, at any time after the end of the taxation year in which the individual so ceased to carry on the business, there shall be included the amount of the individual's cumulative eligible capital in respect thereof at the end of that taxation year.

(2). New

Where  
business  
carried on  
by spouse  
or control-  
led cor-  
poration

Fiscal  
period for  
individual  
proprietor  
of business  
disposed  
of

25. (1) Where an individual was the proprietor of a business and disposed of it during a fiscal period of the business, the fiscal period may, if the taxpayer so elects, be deemed to have ended at the time it would have ended if the taxpayer had not disposed of the business during the fiscal period.

Election

(2) An election under subsection (1) is not valid unless the taxpayer, at the time when the fiscal period of the business would, if the election were valid, be deemed to have ended, is resident in Canada.

### *Special Cases*

Banks

26. (1) There shall be included in computing the income for a taxation year of a bank to which the *Bank Act* or the *Quebec Savings Banks Act* applies, the amount by which the aggregate of the amounts that, at the end of the year, are set aside or reserved by way of write-down of the value of assets or appropriation to contingency reserves or contingent accounts for the purpose of meeting losses on loans, bad or doubtful debts, depreciation in the value of assets other than bank premises, or other contingencies, is, in the opinion of the Minister of Finance, having regard to all the circumstances, in excess of the reasonable requirements of the bank.

Idem

(2) Notwithstanding paragraphs 18(1)(a) and (b), there may be deducted in computing the income for a taxation year of a bank to which the *Bank Act* or the *Quebec Savings Banks Act* applies, such amount as is set aside or reserved for the year either by way of write-down of the value of assets or appropriation to any contingency reserve or contingent account for the purpose of meeting losses on loans, bad or doubtful debts, depreciation in the value of assets other than bank premises, or other contingencies, and is, in the opinion of the Minister of Finance, having regard to all the circumstances, not in excess of the reasonable requirements of the bank.

25. (1). Subsection 15(3)

(2). Subsection 15(4)

26. (1). Section 9

(2). Subsection 11(4)



|                                   |  |   |
|-----------------------------------|--|---|
| Crown corporations                | <p>27. (1) This Part applies to a corporation specified in Schedule D to the <i>Financial Administration Act</i> as though any income or loss from</p> <ul style="list-style-type: none"> <li>(a) a business carried on by the corporation as agent of Her Majesty, and</li> <li>(b) a property of Her Majesty administered by the corporation,</li> </ul> <p>were an income or loss, as the case may be, of the corporation therefrom.</p>  | 27. (1). Subsection 84(1), modified   |
| Idem                              | <p>(2) Notwithstanding any other provision of this Act, a corporation specified in Schedule D to the <i>Financial Administration Act</i> shall be deemed not to be a private corporation, and paragraph 149(1)(d) does not apply to a corporation specified in Schedule D to that Act.</p>   | (2). Subsection 84(2), modified   |
| Transfers of land for disposition | <p>(3) Where land of Her Majesty has been transferred to a corporation specified in Schedule D to the <i>Financial Administration Act</i> for purposes of disposition, the acquisition of the property by the corporation and any disposition thereof shall be deemed not to have been in the course of the business carried on by the corporation.</p>  | (3). Subsection 84(5)   |
| Farming business                  | <p>28. (1) For the purpose of computing the income of a taxpayer for a taxation year from a farming business, the income from the business for that year may, if the taxpayer so elects, be computed in accordance with a method (hereinafter in this section referred to as the "cash" method) whereby the income therefrom for that year shall be deemed to be an amount equal to</p> <ul style="list-style-type: none"> <li>(a) the aggregate of all amounts that <ul style="list-style-type: none"> <li>(i) were received in the year, or are deemed by this Act to have been received in the year, in the course of carrying on the business, and</li> <li>(ii) were in payment of or on account of an amount that would, if the income from the business were not computed in accordance with the cash method, be included in computing income therefrom for that or any other year,</li> </ul> </li> </ul> <p>minus</p> <ul style="list-style-type: none"> <li>(b) the aggregate of all amounts that <ul style="list-style-type: none"> <li>(i) were paid in the year, or are deemed by this Act to have been paid in the year, in the course of carrying on the business, and</li> </ul> </li> </ul> | <p>28. (1). Subsection 85F(1), modified</p> <p>(a). Paragraph 85F(1)(c)</p> <p>(b). Paragraph 85F(1)(d)</p> |

*Subsection 28(1)*

(ii) were in payment of or on account of an amount that would, if the income from the business were not computed in accordance with the cash method, be deductible in computing income therefrom for that or any other year;

and minus any deductions for the year permitted by paragraphs 20(1)(a) and (b).

Idem (2) Subsection (1) does not apply for the purpose of computing the income of a taxpayer for a taxation year from a farming business carried on by him jointly with one or more other persons, unless each of the other persons by whom the business is jointly carried on has elected to have his income from the business for that year computed in accordance with the method authorized by that subsection.

(2). Subsection 85F(2), modified

Concurrence of Minister (3) Where a taxpayer has filed a return of income under this Part for a taxation year wherein his income for that year from a farming business has been computed in accordance with the method authorized by subsection (1), income from the business for a subsequent taxation year shall, subject to the other provisions of this Part, be computed in accordance with that method unless the taxpayer, with the concurrence of the Minister and upon such terms and conditions as are specified by the Minister, adopts some other method.

(3). Subsection 85F(3), modified

Change in residence (4) Where a taxpayer who, at a time when he was a resident of Canada, carried on a business the income from which was computed in accordance with the method authorized by subsection (1) has, upon or after disposing of or ceasing to carry on the business or a part of the business, ceased to be a resident of Canada in a taxation year, an amount equal to the value, at the time he ceased to be a resident of Canada, of

(4). Subsection 85F(3a)

(a) such part of the property that would have been included in the inventory of the business or the part of the business if the income from the business had not been computed in accordance with the method authorized by subsection (1) as remained the

*Subsection 28(4)*

property of the taxpayer at the time he ceased to be a resident of Canada, and

(b) such part of amounts outstanding at the time he ceased to be a resident of Canada as or on account of debts owing to the taxpayer that arose in the course of carrying on the business as would have been included in computing his income for the year if the amounts had been received by him in the year at a time when he was a resident of Canada,

shall be included in computing his income

(c) for the year, if section 114 is not applicable, or

(d) if section 114 is applicable, for the period or periods in the year referred to in paragraph 114(a).

Accounts  
receiva-  
ble

(5) There shall be included in computing the income of a taxpayer for a taxation year such part of an amount received by him in the year, upon or after disposing of or ceasing to carry on a business or a part of a business, for, on account or in lieu of payment of, or in satisfaction of debts owing to the taxpayer that arose in the course of carrying on the business as would have been included in computing the income of the taxpayer for the year had the amount so received been received by him in the course of carrying on the business.

(5). Subsection 85F(4)

Disposi-  
tion of  
animal of  
basic  
herd  
class

29. (1) Where a taxpayer has a basic herd of a class of animals and disposes of an animal of that class in the course of carrying on a farming business in a taxation year, if the taxpayer so elects in his return of income under this Part for the year the following rules apply:

29. (1). New



*Subsection 29(1)*

(a) there shall be deducted in computing his basic herd of that class at the end of the year such number as is designated by him in his election, not exceeding the least of

- (i) the number of animals of that class so disposed of by him in the year,
- (ii)  $1/10$  of his basic herd of that class on December 31, 1971, and
- (iii) his basic herd of that class of animal at the end of the immediately preceding taxation year; and

(b) there shall be deducted in computing his income from the farming business for the taxation year the product obtained when

- (i) the number determined under paragraph (a) in respect of his basic herd of that class for the year

is multiplied by

- (ii) the quotient obtained when the fair market value on December 31, 1971 of his animals of that class on that day is divided by the number of his animals of that class on that day.

Reduction  
in basic  
herd

(2) Where a taxpayer carries on a farming business in a taxation year and his basic herd of any class at the end of the immediately preceding year, minus the deduction, if any, required by paragraph (1)(a) to be made in computing his basic herd of that class at the end of the year, exceeds the number of animals of that class owned by him at the end of the year,

(a) there shall be deducted in computing his basic herd of that class at the end of the year the number of animals comprising the excess, and

(b) there shall be deducted in computing his income from the farming business for the taxation year the product obtained when

(2). New

(i) the number of animals comprising the excess

is multiplied by

(ii) the quotient obtained when the fair market value on December 31, 1971 of his animals of that class on that day is divided by the number of his animals of that class on that day.

(3) For the purposes of this section,

(3). New

(a) a taxpayer's "basic herd" of any class of animals at a particular time means such number of the animals of that class that the taxpayer had on hand at the end of his 1971 taxation year as were, for the purpose of assessing his tax under this Part for that year, accepted by the Minister, as a consequence of an application made by the taxpayer, to be capital properties and not to be stock-in-trade, minus the numbers, if any, required by virtue of this section to be deducted in computing his basic herd of that class at the end of taxation years of the taxpayer ending before the particular time;

(b) "class of animals" means animals of a particular species, namely cattle, horses, sheep or swine, that are

(i) purebred animals of that species for which a certificate of registration has been issued by a person recognized by breeders in Canada of purebred animals of that species to be the registrar of the breed to which such animals belong, or issued by the Registrar of the Canadian National Livestock Records, or

(ii) animals of that species other than purebred animals described in subparagraph (i),

each of which descriptions in subparagraphs (i) and (ii) shall be deemed to be of separate classes, except that where the number of the taxpayer's animals described in subparagraph (i) or (ii), as the case may be, of a particular species is not greater than 10% of the total number of the taxpayer's animals of that species that would otherwise be of two separate classes by virtue of this paragraph, his animals described in subpara-

*Subsection 29(3)*

graphs (i) and (ii) of that species shall be deemed to be of a single class; and

(c) in determining the number of animals of any class on hand at any time, an animal shall not be included if it was acquired for a feeder operation, and an animal shall be included only if its actual age is not less than,

(i) in the case of cattle, 2 years,

(ii) in the case of horses, 3 years, and

(iii) in the case of sheep or swine, one year,

except that 2 animals of a class under the age specified in subparagraph (i), (ii) or (iii), as the case may be, shall be counted as one animal of the age so specified.

Clearing  
land,  
levelling  
land and  
laying  
tile  
drainage

30. Notwithstanding paragraphs 18(1)(a) and (b), there may be deducted in computing a taxpayer's income for a taxation year from a farming business any amount paid by him in the year for clearing land, levelling land or laying tile drainage for the purpose of carrying on the farming business.

30. Subsection 11(16)

Loss from  
farming  
where  
chief  
source of  
income  
not  
farming

31. (1) Where a taxpayer's chief source of income for a taxation year is neither farming nor a combination of farming and some other source of income, for the purposes of sections 3 and 111 his loss, if any, for the year from all farming businesses carried on by him shall be deemed to be the lesser of

31. (1). Subsection 13(1), modified

(a) the amount by which the aggregate of his losses for the year otherwise determined from all farming businesses carried on by him exceeds the aggregate of his incomes for the year from all such businesses, and



## Subsection 31(1)

(b) \$2,500 plus the lesser of

- (i)  $1/2$  of the amount by which the amount determined under paragraph (a) exceeds \$2,500, and
- (ii) \$2,500;

and for the purposes of this Act the amount, if any, by which the amount determined under paragraph (a) exceeds the amount determined under paragraph (b) is the taxpayer's "restricted farm loss" for the year.

Deter-  
mination  
by  
Minister

(2) For the purpose of this section, the Minister may determine that a taxpayer's chief source of income for a taxation year is neither farming nor a combination of farming and some other source of income.

(2). Subsection 13(2)

Insurance  
agents  
and  
brokers

32. (1) Paragraph 20(1)(m) does not apply to allow a deduction to an insurance agent or broker in respect of unearned commissions but a taxpayer may, in computing his income from a business as an insurance agent or broker for a taxation year, deduct as a reserve in respect of unearned commissions an amount equal to the proportion of an amount that has been included in computing his income for the year or a previous year as a commission in respect of an insurance contract, other than a life insurance contract, that

32. (1). Subsection 85B(6)

(a) the number of days in that portion of the period provided for in the insurance contract that is after the end of the taxation year,

is of

(b) the whole of that period.

Reserve  
to be  
included

(2) There shall be included as income of a taxpayer for a taxation year from a business as an insurance agent or broker, the amount deducted under subsection (1) in computing his income therefrom for the immediately preceding year.

(2). New

Lending  
of money  
on  
security

33. (1) In computing the income for a taxation year of a taxpayer whose business includes the lending of money on the security of a mortgage, hypothec or agreement of sale of real property, there may be deducted as a reserve, in lieu of any deduction under paragraph 20(1)(f), such amount as the taxpayer may claim not exceeding the lesser of

(a) 1 1/2% of the aggregate of

(i) each amount outstanding at the end of the year as or on account of the principal amount of loans made by the taxpayer on the security of a mortgage, hypothec or agreement of sale of real property, or as or on account of the principal amount of any such mortgage, hypothec or agreement of sale purchased by him,

(ii) each amount due and unpaid at the end of the year as or on account of interest payable to the taxpayer under a mortgage, hypothec or agreement of sale of real property, and

(iii) each amount that has been taken into account in computing the income of the taxpayer for the year as or on account of the value of real property of the taxpayer that was included in the inventory of the taxpayer at the end of the year and that was acquired, by foreclosure or otherwise, after default made under a mortgage, hypothec or agreement of sale of real property (otherwise than as or on account of the value of real property in respect of which any amount for the year has been included under subparagraph (i) or (ii)); and

(b) the amount, if any, deducted under this subsection as a reserve in computing the taxpayer's income for the immediately preceding taxation year plus 1/3 of the amount determined under paragraph (a);

but no deduction may be made under this subsection as a reserve in respect of loans made on the security of a mortgage or hypothec under the *National Housing Act* or any of the

33. (1). Section 85G

(a). Subparagraph 85G(a)(i)

(b). Subparagraph 85G(a)(ii)

Housing Acts as defined in section 2 of the  
*Central Mortgage and Housing Corporation Act.*

Reserve  
to be  
included

(2) There shall be included as income of a taxpayer for a taxation year from a business described in subsection (1), the amount deducted under that subsection as a reserve in computing his income therefrom for the immediately preceding year.

(2). Paragraph 85G(b), modified

Profes-  
sional  
business

34. (1) In computing the income of a taxpayer for a taxation year from a business that is a profession, the following rules apply:

34. (1). New

(a) paragraphs 12(1)(b) and 20(1)(m) are not applicable;

(b) every amount that becomes receivable by him in the year in respect of property sold or services rendered in the course of the business shall be included;

(c) for the purposes of paragraph (b), an amount shall be deemed to have become receivable in respect of services rendered in the course of the business on the day that is the earliest of

(i) the day upon which the account in respect of the services was rendered,

(ii) the day upon which the account in respect of those services would have been rendered had there been no undue delay in rendering the account in respect of the services, and

(iii) the day upon which the taxpayer was paid for the services; and

(d) where the taxpayer so elects in his return of income under this Part for the year, no amount shall be included in respect of work in progress at the end of the taxation year, except as otherwise provided by this section.



## Section 34

Application  
of para.  
(1)(d)  
where  
election  
made

(2) Where a taxpayer has elected that paragraph (1)(d) be applicable in computing his income for a taxation year from a business that is a profession, that paragraph shall apply in computing his income from the business for all subsequent taxation years unless the taxpayer, with the concurrence of the Minister and upon such terms and conditions as are specified by the Minister, revokes his election to have that paragraph apply.

(2). New

Prospectors  
and grub-  
stakers

35. (1) Where a share of the capital stock of a corporation

35. (1). New

(a) is received in a taxation year by an individual as consideration for the disposition by him to the corporation of a mining property or interest therein acquired by him as a result of his efforts as a prospector, either alone or with others, or

(b) is received in a taxation year

(i) by a person who has, either under an arrangement with a prospector made before the prospecting, exploration or development work or as an employer of a prospector, advanced money for, or paid part or all of, the expenses of prospecting or exploring for minerals or of developing a property for minerals, and

(ii) as consideration for the disposition by the person referred to in subparagraph (i) to the corporation of a mining property or interest therein acquired under the arrangement under which he made the advance or paid the expenses, or if the prospector was his employee, acquired by him through the employee's efforts,

the following rules apply:

(c) notwithstanding any other provision of this Act, no amount in respect of the receipt of the share shall be included in computing the income for the year of the individual or person, as the case may be;

*Subsection 35(1)*

(d) notwithstanding subdivision c, in computing the cost to the individual or the person, as the case may be, of the share, no amount shall be included in respect of the mining property or interest therein, as the case may be; and

(e) notwithstanding section 66, in computing the cost to the corporation of the mining property or the interest therein, as the case may be, no amount shall be included in respect of the share.

## Definitions

"Mining property"

(2) In this section,

(a) "mining property" means a right to prospect, explore or mine for minerals or a property the principal value of which depends upon its mineral content, and

"Prospector"

(b) "prospector" means an individual who prospects or explores for minerals or develops a property for minerals on behalf of himself, on behalf of himself and others or as an employee.

(2). Subsection 83(1), modified

## Railway companies

36. Where any amount in respect of an expenditure incurred by a taxpayer on or in respect of the repair, replacement, alteration or renovation of depreciable property of the taxpayer of a class prescribed by regulations of the Governor in Council made for the purposes of this section is, under a uniform classification and system of accounts and returns prescribed by the Canadian Transport Commission pursuant to the *Railway Act*, required to be entered in the books of the taxpayer otherwise than as an expense,

(a) no deduction may be made in respect of that expenditure in computing the income of the taxpayer for a taxation year; and

(b) for the purposes of section 13 and regulations made under paragraph 20(1)(a), the taxpayer shall be deemed to have acquired, at the time the expenditure was incurred, depreciable property of that class at a capital cost equal to that amount.

36. Subsection 84A(3)

37. (1) There may be deducted in computing the income for a taxation year of a taxpayer who carried on a business in Canada and made expenditures in respect of scientific research in the year the amount by which the aggregate of

(a) all expenditures of a current nature made in Canada in the year

(i) on scientific research related to the business and directly undertaken by or on behalf of the taxpayer,

(ii) by payments to an approved association that undertakes scientific research related to the class of business of the taxpayer,

(iii) by payments to an approved university, college, research institute or other similar institution to be used for scientific research related to the class of business of the taxpayer,

(iv) by payments to a corporation resident in Canada and exempt from tax under paragraph 149(1)(j), or

(v) by payments to a corporation resident in Canada for scientific research related to the business of the taxpayer;

(b) such amount as may be claimed by the taxpayer not exceeding the lesser of

(i) the expenditures of a capital nature made in Canada (by acquiring property other than land) in the year and any previous year ending after 1958 on scientific research relating to the business and directly undertaken by or on behalf of the taxpayer, and

(ii) the undepreciated capital cost to the taxpayer of the property so acquired as of the end of the taxation year (before making any deduction under this paragraph in computing the income of the taxpayer for the taxation year), and

37. (1). Subsection 72(1)



*Subsection 37(1)*

(c) all expenditures in the year by way of repayment of amounts paid to the taxpayer under an *Appropriation Act* and on terms and conditions approved by the Treasury Board for the purpose of advancing or sustaining the technological capability of Canadian manufacturing or other industry, exceeds the aggregate of amounts paid to him in the year under an *Appropriation Act* and on terms and conditions described in paragraph (c).

Research  
outside  
Canada

(2) There may be deducted in computing the income for a taxation year of a taxpayer who carried on business in Canada and made expenditures in the year in respect of scientific research carried on outside Canada, all such expenditures of a current nature made in the year

(2). Subsection 72(1a)

(a) on scientific research related to the business and directly undertaken by or on behalf of the taxpayer; or

(b) by payments to an approved association, university, college, research institute or other similar institution to be used for scientific research related to the class of business of the taxpayer.

Minister  
may obtain  
advice

(3) The Minister may obtain the advice of the Department of Industry, Trade and Commerce, the National Research Council, the Defence Research Board or any other agency or department of the Government of Canada carrying on activities in the field of scientific research as to whether any particular activity constitutes scientific research.

(3). Subsection 72(2)

Deductions

(4) No deduction may be made under this section in respect of an expenditure made to acquire rights in, or arising out of, scientific research.

(4). Subsection 72(3)

## Section 37

Idem (5) Where in respect of an expenditure on scientific research made by a taxpayer in a taxation year an amount is deductible under this section and under section 110, no deduction may be made in respect of the expenditure under section 110 in computing the taxable income of the taxpayer for any taxation year.

(5). Subsection 72(3a)

Expenditures of a capital nature (6) An amount claimed under paragraph (1)(b) in computing a deduction under that subsection shall, for the purpose of section 13, be deemed to be an amount allowed to the taxpayer in respect of the property acquired by the expenditures under regulations made under paragraph 20(1)(a), and for that purpose the property acquired by the expenditures shall be deemed to be of a separate prescribed class.

(6). Subsection 72(5)

Definitions (7) In this section,  
 "Approved" (a) "approved" means approved by the Minister after he has, if he considers it necessary, obtained the advice of the Department of Industry, Trade and Commerce or the National Research Council;  
 "Scientific research" (b) "scientific research" has the meaning given to that expression by regulation;  
 (c) references to expenditures on or in respect of scientific research  
 (i) where the references occur in subsection (2), include only expenditures incurred for and wholly attributable to the prosecution of scientific research, and  
 (ii) where the references occur other than in subsection (2), include only expenditures incurred for and wholly attributable to the prosecution, or the provision of facilities for the prosecution, of scientific research in Canada; and  
 (d) references to scientific research relating to a business or class of business include any scientific research that may lead to or facilitate an extension of that business or, as the case may be, business of that class.

(7). Subsection 72(4)

Subdivision c — Taxable Capital Gains  
and Allowable Capital Losses

Meaning of  
taxable  
capital gain  
and allow-  
able capital  
loss

38. For the purposes of this Act,

38. New

(a) a taxpayer's taxable capital gain for a taxation year from the disposition of any property is  $1/2$  of his capital gain for the year from the disposition of that property; and

(b) a taxpayer's allowable capital loss for a taxation year from the disposition of any property is  $1/2$  of his capital loss for the year from the disposition of that property.

Meaning of  
capital gain  
and capital  
loss

39. (1) For the purposes of this Act,

39. (1) New

(a) a taxpayer's capital gain for a taxation year from the disposition of any property is his gain for the year determined under this subdivision (to the extent of the amount thereof that would not, if section 3 were read without reference to the expression "other than a taxable capital gain from the disposition of a property" in paragraph (a) thereof and without reference to paragraph (b) thereof, be included in computing his income for the year or any other taxation year) from the disposition of any property of the taxpayer other than

(i) eligible capital property,

(ii) property, any amount receivable by the taxpayer for the disposition of which is required to be included in computing his income for the year by virtue of section 59, or

(iii) a life insurance policy within the meaning of section 138 (except an annuity contract); and



(b) a taxpayer's capital loss for a taxation year from the disposition of any property is his loss for the year determined under this subdivision (to the extent of the amount thereof that would not, if section 3 were read in the manner described in paragraph (a) of this subsection, be deductible in computing his income for the year or any other taxation year) from the disposition of any property of the taxpayer other than

- (i) depreciable property, or
- (ii) property described in subparagraph (a)(i), (ii) or (iii).

Capital  
gains and  
losses in  
respect of  
foreign  
currencies

(2) Notwithstanding subsection (1), where, by virtue of any fluctuation in the value of the currency or currencies of one or more countries other than Canada relative to Canadian currency, a taxpayer has made a gain or sustained a loss in a taxation year, the following rules apply:

- (a) the amount, if any, by which
  - (i) the aggregate of all such gains made by the taxpayer in the year (to the extent of the amounts thereof that would not, if section 3 were read in the manner described in paragraph (1)(a) of this section, be included in computing his income for the year or any other taxation year)

exceeds

- (ii) the aggregate of all such losses sustained by the taxpayer in the year (to the extent of the amounts thereof that would not, if section 3 were read in the manner described in paragraph (1)(a) of this section, be deductible in computing his income for the year or any other taxation year), and
  - (iii) if the taxpayer is an individual, \$200,
- shall be deemed to be a capital gain of the taxpayer for the year from the disposition of currency of a country other than Canada, the amount of which capital gain is the amount determined under this paragraph; and

(2). New

*Subsection 39(2)*

(b) the amount, if any, by which  
 (i) the aggregate determined under subparagraph (a)(i),  
 exceeds

(ii) the aggregate determined under subparagraph (a)(i), and

(iii) if the taxpayer is an individual, \$200,  
 shall be deemed to be a capital loss of the taxpayer for the year from the disposition of currency of a country other than Canada, the amount of which capital loss is the amount determined under this paragraph.

General  
 rules

40. (1) Except as otherwise expressly provided in this Part

(a) a taxpayer's gain for a taxation year from the disposition of any property is the amount, if any, by which

(i) if the property was disposed of in the year, the amount, if any, by which his proceeds of disposition exceeds the aggregate of the adjusted cost base to him of the property immediately before the disposition and any outlays and expenses to the extent that they were made or incurred by him for the purpose of making the disposition, or

(ii) if the property was disposed of before the year, the amount, if any, claimed by him under subparagraph (iii) in computing his gain for the immediately preceding year from the disposition of the property,

exceeds

(iii) such amount as he may claim, not exceeding a reasonable amount as a reserve in respect of such of the proceeds of disposition of the property that are not due to him until after the end of the year as may reasonably be regarded as a portion of the amount determined under subparagraph (i) in respect of the property; and

40. (1). New

(b) a taxpayer's loss for a taxation year from the disposition of any property is,

(i) if the property was disposed of in the year, the amount, if any, by which the aggregate of the adjusted cost base to him of the property immediately before the disposition and outlays and expenses to the extent that they were made or incurred by him for the purpose of making the disposition, exceeds his proceeds of disposition of the property, and

(ii) in any other case, nil.

(2) Notwithstanding subsection (1),

(a) subparagraph (1)(a)(iii) does not apply to permit a taxpayer to claim any amount thereunder in computing a gain for a taxation year if the taxpayer was, at any time in the year or the immediately following year, not resident in Canada;

(b) where the taxpayer is an individual, his gain for a taxation year from the disposition of a property that was at any time his principal residence is his gain therefrom for the year otherwise determined minus that proportion thereof that

(i) the number of years for which the property was his principal residence and during which he was resident in Canada

is of

(ii) the number of years during which he owned the property, whether jointly with another person or otherwise;

(c) where the taxpayer is an individual, his gain for a taxation year from the disposition of land used in a farming business carried on by him that includes property that was at any time his principal residence is

(i) his gain for the year, otherwise determined, from the disposition of the portion of the land that does not include the property that was his principal residence, plus his gain for the year, if any, determined under paragraph (b) from the disposition of the property that was his principal residence, or

(2). New



- (ii) if the taxpayer so elects in prescribed manner in respect of the land, his gain for the year from the disposition of the land including the property that was his principal residence, determined without regard to paragraph (b) or subparagraph (i) of this paragraph, minus \$1,000 for each year for which the residence was his principal residence and during which he was resident in Canada;
- (d) where the taxpayer is a corporation, its loss for a taxation year from the disposition of a bond or debenture is its loss therefrom for the year otherwise determined, less the aggregate of such amounts received by it as, on account or in lieu of payment of, or in satisfaction of interest thereon as were, by virtue of paragraph 81(1)(m), not included in computing its income;
- (e) where the taxpayer is a corporation, its loss otherwise determined from the disposition of any property disposed of by it to
  - (i) a corporation that was controlled by it,
  - (ii) a corporation by which it was controlled, or
  - (iii) a corporation that was controlled by a corporation described in subparagraph (ii),
 is nil;
- (f) a taxpayer's gain or loss from the disposition of
  - (i) a chance to win a prize, or
  - (ii) a right to receive an amount as a prize,
 in connection with a lottery scheme is nil; and
- (g) a taxpayer's loss, if any, from the disposition of a property, to the extent that it is
  - (i) a superficial loss,
  - (ii) a loss from a disposition any proceeds of which are, or if there are no such proceeds would be if there were such proceeds, described in subparagraph 54(h)(ii) or (iii),

## Subsection 40(2)

(iii) a loss from the disposition of a debt or other right to receive an amount, unless the debt or right, as the case may be, was acquired by the taxpayer solely for the purpose of gaining or producing income from a business or property (other than exempt income), or

(iv) a loss from the disposition of any personal-use property of the taxpayer other than listed personal property,

is nil.

Negative  
adjusted  
cost base  
deemed to  
be gain

(3) Where

(a) the aggregate of all amounts required by subsection 53(2) (except paragraph (b) thereof) to be deducted in computing the adjusted cost base to a taxpayer of any property at any time in a taxation year

exceeds

(b) the aggregate of the cost to him of the property and all amounts required by subsection 53(1) to be included in computing the adjusted cost base to him of that property at that time,

the amount of the excess shall be deemed to be a gain of the taxpayer for the year from a disposition at that time of that property.

(3). New

Meaning of  
taxable net  
gain from  
dispositions  
of listed  
personal  
property

41. (1) For the purposes of this Part, a taxpayer's taxable net gain for a taxation year from dispositions of listed personal property is  $1/2$  of the amount determined under subsection (2) to be his net gain for the year from dispositions of such property.

41. (1). New

Determina-  
tion of  
net gain

(2) A taxpayer's net gain for a taxation year from dispositions of listed personal property is an amount determined as follows:

(a) determine the amount, if any, by which the aggregate of his gains for the year from dispositions of listed personal property exceeds the aggregate of his losses for the year from dispositions of listed personal property; and

(2). New

*Subsection 41(2)*

(b) deduct from the amount determined under paragraph (a) his listed-personal-property losses for the 5 taxation years immediately preceding and the taxation year immediately following the taxation year, except that for the purposes of this paragraph

(i) an amount in respect of a listed-personal-property loss is only deductible to the extent that it exceeds the aggregate of amounts previously deductible in respect of that loss under this paragraph,

(ii) no amount is deductible in respect of the listed-personal-property loss of any year until the deductible listed-personal-property losses for previous years have been deducted, and

(iii) no amount is deductible in respect of listed-personal-property losses from the amount determined under paragraph (a) for a taxation year except to the extent of the amount so determined for the year,

and the remainder determined under paragraph (b) is the taxpayer's net gain for the year from dispositions of listed personal property.

"Listed-personal-property loss" defined

(3) In this section, "listed-personal-property loss" of a taxpayer for a taxation year means the amount, if any, by which the aggregate of his losses for the year from dispositions of listed personal property exceeds the aggregate of his gains for the year from dispositions of listed personal property.

(3). New



|   |  |         |
|---|--|---------|
| Dispositions<br>subject to<br>warranty                | <p>42. In computing a taxpayer's proceeds of disposition of any property for the purposes of this subdivision, there shall be included any amount received or receivable by the taxpayer as consideration for any warranty, covenant or other conditional or contingent obligation incurred by the taxpayer in respect of the disposition, and in computing the taxpayer's income for the year in which the property was disposed of or for any of the 6 immediately following taxation years, any outlay or expense made or incurred by the taxpayer in any such taxation year pursuant to or by virtue of the obligation shall, if the obligation was a legal obligation incurred by the taxpayer, be deemed to be a loss of the taxpayer for that taxation year from the disposition of a capital property.</p> | 42. New |
| Part<br>dis-<br>positions                             | <p>43. For the purpose of computing a taxpayer's gain for a taxation year from the disposition of a part of a property, the adjusted cost base to him, immediately before the disposition, of that part is such portion of the adjusted cost base to him at that time of the whole property as may reasonably be regarded as attributable to that part.</p>  | 43. New |
| Deferral<br>of gain on<br>involuntary<br>dispositions | <p>44. Where in a taxation year a taxpayer has received proceeds of disposition described in subparagraph 54(h)(iii) or (iv) of any property (in this section referred to as his "former property") and, before the end of the following taxation year, has expended an amount to acquire other property as a replacement for his former property, notwithstanding subsection 40(1)</p> <p>(a) the gain, if any, from the disposition of his former property is the lesser of</p> <ul style="list-style-type: none"> <li>(i) the gain therefrom otherwise determined, and</li> <li>(ii) the amount, if any, by which the proceeds of disposition of his former property exceed the cost to him, otherwise determined, of the other property, and</li> </ul>  | 44. New |

(b) the cost to the taxpayer of the other property shall be deemed to be the cost to him of the other property otherwise determined, minus the amount, if any, by which the gain described in subparagraph (a)(i) exceeds the excess, if any, determined under subparagraph (a)(ii).

45. (1) For the purposes of this subdivision the following rules apply:

(a) where a taxpayer,

(i) having acquired property for some other purpose, has commenced at a later time to use it for the purpose of gaining or producing income therefrom, or for the purpose of gaining or producing income from a business, or

(ii) having acquired property for the purpose of gaining or producing income therefrom or for the purpose of gaining or producing income from a business, has commenced at a later time to use it for some other purpose,

he shall be deemed to have

(iii) disposed of it at that later time for proceeds equal to its fair market value at that later time, and

(iv) immediately thereafter reacquired it at a cost equal to that fair market value;

(b) where property has, since it was acquired by a taxpayer, been regularly used in part for the purpose of gaining or producing income therefrom or for the purpose of gaining or producing income from a business and in part for some other purpose, the taxpayer shall be deemed to have acquired, for that other purpose, the proportion of the property that the use regularly made of the property for that other purpose is of the whole use regularly made of the property at a cost to him equal to the same proportion of the cost to him of the whole property; and, if the property has, in such a case, been

45. (1). New

Property  
with more  
than one  
use

disposed of, the proceeds of disposition of the proportion of the property deemed to have been acquired for that other purpose shall be deemed to be the same proportion of the proceeds of disposition of the whole property; and

(c) where, at any time after a taxpayer has acquired property, there has been a change in the relation between the use regularly made by him of the property for gaining or producing income therefrom or income from a business and the use regularly made of the property for other purposes,

(i) if the use regularly made by him of the property for those other purposes has increased, he shall be deemed to have

(A) disposed of property at that time for proceeds equal to the proportion of the fair market value of the property at that time that the amount of the increase in the use regularly made by him of the property for those other purposes is of the whole use regularly made of the property, and  
(B) immediately thereafter reacquired the property so disposed of at a cost equal to the proceeds referred to in clause (A), and

(ii) if the use regularly made by him of the property for those other purposes has decreased, he shall be deemed to have disposed of property at that time and the proceeds of disposition shall be deemed to be an amount equal to the proportion of the fair market value of the property at that time that the amount of the decrease in use regularly made by him of the property for those other purposes is of the whole use regularly made of the property.

## Section 45

Election  
where  
change  
in use

(2) For the purposes of this subdivision and section 13, where paragraph (1)(a) and paragraph 13(7)(b) would otherwise be applicable in respect of any property of a taxpayer for a taxation year and the taxpayer so elects in his return of income for the year under this Part, the taxpayer shall be deemed not to have commenced to use the property for the purpose of gaining or producing income therefrom or for the purpose of gaining or producing income from a business except that if in his return of income for a subsequent year under this Part he rescinds his election in respect of the property, he shall be deemed to have commenced so to use the property on the first day of that subsequent year.

(2). New

Personal-use  
property

46. (1) Where a taxpayer has disposed of any personal-use property of the taxpayer, for the purposes of this subdivision

46. (1). New

(a) the adjusted cost base to him of the property immediately before the disposition shall be deemed to be the greater of \$1,000 and the amount otherwise determined to be its adjusted cost base to him at that time; and

(b) his proceeds of disposition of the property shall be deemed to be the greater of \$1,000 and his proceeds of disposition of the property otherwise determined.

Where part  
only of  
property  
disposed of

(2) Where a taxpayer has disposed of part of a personal-use property owned by him and has retained another part of the property, for the purposes of this subdivision

(2). New

(a) the adjusted cost base to him, immediately before the disposition, of the part so disposed of shall be deemed to be the greater of

(i) the adjusted cost base to him at that time of that part otherwise determined, and

(ii) that proportion of \$1,000 that the amount determined under subparagraph

(i) is of the adjusted cost base to him at that time of the whole property; and



## Subsection 46(2)

(b) the proceeds of disposition of the part so disposed of shall be deemed to be the greater of

(i) the proceeds of disposition thereof otherwise determined, and

(ii) the amount determined under subparagraph (a)(ii).

Properties  
ordinarily  
disposed  
of as a set

(3) For the purposes of this subdivision, where a number of personal-use properties of a taxpayer that would, if the properties were disposed of, ordinarily be disposed of in one disposition as a set,

(a) have been disposed of by more than one disposition so that all of the properties have been acquired by one person or by a group of persons not dealing with each other at arm's length, and

(b) had, immediately before the first disposition referred to in paragraph (a), an aggregate fair market value greater than \$1,000, the properties shall be deemed to be a single personal-use property and each such disposition shall be deemed to be a disposition of a part of that property.

Decrease in  
value of  
personal-use  
property of  
corporation,  
etc.

(4) Where it may reasonably be regarded that, by reason of a decrease in the fair market value of any personal-use property owned by a corporation, partnership or trust,

(a) a taxpayer's gain, if any, from the disposition of a share of the capital stock of a corporation, an interest in a trust or an interest in a partnership has become a loss, or is less than it would have been if the decrease had not occurred, or

(b) a taxpayer's loss, if any, from the disposition of a share or interest described in paragraph (a) is greater than it would have been if the decrease had not occurred,

the amount of the gain or loss, as the case may be, shall be deemed to be the amount that it would have been but for the decrease.

(3). New

(4). New

Identical  
properties

47. (1) Where at any time a taxpayer who owns a group of properties, each of which is identical to each other property in the group, disposes of a part of the group and retains another part of the group,

(a) the adjusted cost base to him immediately before that time of the part so disposed of is that proportion of the adjusted cost base to him immediately before that time of the whole group that the number of the properties in the part so disposed of is of the number of properties in the whole group immediately before that time; and

(b) the taxpayer shall be deemed to have disposed of the part of the group so retained at that time, for proceeds equal to that proportion of the adjusted cost base to him of the whole group immediately before that time that the number of the properties in the part so retained is of the number of the properties in the group immediately before that time, and to have reacquired that part immediately thereafter at a cost equal to those proceeds.

Where  
identical  
properties  
are bonds,  
etc.

(2) For the purposes of subsection (1), where a group of properties referred to in subsection (1) is a group of identical obligations within the meaning of subsection (3), subsection (1) shall be read as if the references to "the number of" were read as references to "the aggregate of the principal amounts of".

When bonds,  
etc., are  
identical

(3) For the purposes of this subdivision, one bond, debenture, bill, note or other similar obligation issued by a debtor is identical to another such obligation issued by that debtor if both are identical in respect of all rights (in equity or otherwise, either immediately or in the future and either absolutely or contingently) attaching thereto, except as regards the principal amount thereof.

47. (1). New

(2). New

(3). New

Deemed  
disposition  
on ceasing  
to be  
resident in  
Canada

48. (1) For the purposes of this subdivision, where at any time in a taxation year a taxpayer ceases to be resident in Canada, he shall be deemed to have disposed of each property, other than

(a) any property that would be taxable Canadian property if at no time in the year he had been resident in Canada, or

(b) a right to receive any payment described in any of paragraphs 212(1)(h) to (o),

owned by him at that time, for proceeds of disposition equal to the fair market value of the property at that time, and to have reacquired the property immediately thereafter at a cost equal to that fair market value, except that where the taxpayer is an individual other than a trust, the aggregate of his taxable capital gains for the year from the disposition of those properties shall be deemed to be the amount, if any, by which that aggregate otherwise determined exceeds \$2,500.

Election  
by  
individual  
ceasing  
to be  
resident in  
Canada

(2) Where subsection (1) would otherwise apply for the purpose of computing the income for a taxation year of a taxpayer who is an individual other than a trust, if the taxpayer

(a) so elects, in prescribed manner and within prescribed time, and

(b) furnishes to the Minister security acceptable to the Minister for payment of the additional tax under this Part that would have been payable by him if he had not so elected, whether such security is by way of a charge of any kind on property of the taxpayer or any other person or by way of guarantee from other persons,

for the purposes of this Act the following rules apply:

(c) subsection (1) is not applicable for the purpose of computing his income for the year; and

48. (1). New

(2). New

(d) the taxpayer shall be deemed to have been resident in Canada throughout any taxation year in which he actually disposed of or is deemed by any other provision of this Act to have disposed of any property (other than property described in paragraph (1)(a) or (b)) owned by him at the time he ceased to be resident in Canada.

Deemed  
acqui-  
sition on  
becoming  
a resident  
of Canada

(3) For the purposes of this subdivision, where at any time a taxpayer becomes a resident of Canada, he shall be deemed to have acquired at that time each property (other than any property that would be property described in paragraph (1)(a) if he had disposed of it at that time) owned by him at that time, at a cost equal to its fair market value at that time.

(3). New

Granting  
of option

49. (1) Subject to subsections (2) and (3), for the purpose of this subdivision the granting of an option, other than

(a) an option to acquire or to dispose of a principal residence, or

(b) an option granted by a corporation to acquire shares of its capital stock or bonds or debentures to be issued by it,

is a disposition of a property the adjusted cost base of which to the grantor immediately before the grant is nil.

49. (1). New

Where  
option  
expires

(2) Where at any time an option described in paragraph (1)(b) that has been granted by a corporation after 1971 expires,

(a) the corporation shall be deemed to have disposed of capital property at that time for proceeds equal to the proceeds received by it for the granting of the option; and

(b) the adjusted cost base to the corporation of that capital property immediately before that time shall be deemed to be nil.

(2). New



## Section 49

## (3). New

Where  
option  
exercised

(3) Where an option is exercised so that property is disposed of by a taxpayer (hereinafter referred to as the "vendor") or so that property is acquired by another taxpayer (hereinafter referred to as the "purchaser"), for the purpose of computing the income of each such taxpayer the granting of the option and the exercise thereof shall be deemed not to be dispositions of property and,

(a) if the option is an option to acquire property, there shall be included

- (i) in computing the vendor's proceeds of disposition of the property, the consideration received by him for the option, and
- (ii) in computing the cost to the purchaser of the property, the cost to him of the option; and

(b) if the option is an option to dispose of property, there shall be deducted

- (i) in computing the vendor's proceeds of disposition of the property, the cost to him of the option, and
- (ii) in computing the cost to the purchaser of the property, the consideration received by him for the option.

Reassessment  
where  
option  
exercised in  
subsequent  
year

## (4) Where

## (4). New

(a) an option granted by a taxpayer in a taxation year (in this subsection referred to as the "initial year") is exercised in a subsequent taxation year (in this subsection referred to as the "subsequent year"),

(b) the taxpayer has filed a return of his income for the initial year as required by section 150, and

(c) on or before the day on or before which he was required by section 150 to file a return of his income for the subsequent year, has filed an amended return for the initial year excluding from his income the proceeds received by him for the granting of the option,

such reassessment of the taxpayer's tax, interest or penalties for the year shall be made as is necessary to give effect to the exclusion.

Debts  
established  
to be bad  
debts

50. (1) For the purposes of this subdivision, where a debt owing to a taxpayer at the end of a taxation year (other than a debt owing to him in respect of the disposition of a personal-use property) is established by him to have become a bad debt in the year, he shall be deemed to have disposed of it at the end of the year and to have reacquired it immediately thereafter at a cost equal to nil.

50. New

Where debt  
personal-use  
property

(2) Where a debt owing to a taxpayer at the end of a taxation year that is a personal-use property of the taxpayer is established by him to have become a bad debt in the year,

(a) he shall be deemed to have disposed of it at the end of the year for proceeds equal to the amount, if any, by which

(i) its adjusted cost base to him immediately before the end of the year

exceeds

(ii) the amount of his gain, if any, from the disposition of the personal-use property the proceeds of disposition of which included the debt; and

(b) he shall be deemed to have reacquired the debt immediately after the end of the year at a cost equal to the amount of the proceeds determined under paragraph (a).

Convertible  
bonds

51. Where shares of the capital stock of a corporation have, after 1971, been acquired by a taxpayer in exchange for a bond, debenture or note of the corporation (in this section referred to as a "convertible bond") the terms of which conferred upon the holder thereof the right to make the exchange,

51. New

(a) the exchange shall be deemed not to have been a disposition of property, and

(b) the cost to the taxpayer of the shares shall be deemed to be the adjusted cost base to him of the convertible bond immediately before the exchange.

Cost of  
certain  
property  
value of  
which  
included  
in income

52. (1) For the purposes of this subdivision, where a taxpayer has acquired property after 1971 and an amount in respect of the value thereof has been included in computing his income otherwise than under section 7,

52. (1). New

the amount so included shall be added in computing the cost to him of that property.

Cost of  
property  
received as  
dividend  
in kind

(2) Where any property has, after 1971, been received by a shareholder of a corporation at any time as, on account or in lieu of payment of, or in satisfaction of, a dividend payable in kind (other than a stock dividend) in respect of a share owned by him of the capital stock of the corporation, he shall be deemed to have acquired the property at a cost to him equal to its fair market value at that time, and the corporation shall be deemed to have disposed of the property at that time for proceeds equal to that fair market value.

(2). New

Cost of  
stock  
dividend

(3) Where a shareholder of a corporation has, after 1971, received a stock dividend in respect of a share owned by him of the capital stock of the corporation, he shall be deemed to have acquired the share or shares received by him as a stock dividend at a cost to him equal to the amount of the stock dividend.

(3). New

Cost of  
property  
acquired  
as prize

(4) Where any property has been acquired by a taxpayer at any time after 1971 as a prize in connection with a lottery scheme, he shall be deemed to have acquired the property at a cost to him equal to its fair market value at that time.

(4). New

Cost of  
property  
transferred  
by trustee  
under  
employees  
profit  
sharing  
plan

(5) Where any property has, after 1971, been transferred to a beneficiary by a trustee under an employees profit sharing plan,

(5). New

(a) subsection (1) does not apply in respect of the property; and

(b) the beneficiary shall be deemed to have acquired the property at a cost to him equal to its fair market value at the time of the transfer.

Adjust-  
ments  
to cost  
base

53. (1) In computing the adjusted cost base to a taxpayer of property at any time, there shall be added to the cost to him of the property such of the following amounts in respect of the property as are applicable:

53. (1). New

(a) any amount deemed by subsection 40(3) to be a gain of the taxpayer for a taxation year from a disposition before that time of the property;

(b) where the property is a share of the capital stock of a corporation resident in Canada, the amount of any dividend on

the share deemed by subsection 84(1) to have been received by the taxpayer before that time;

(c) where the property is a share of the capital stock of a corporation resident in Canada and the taxpayer has, after 1971, made a contribution of capital to the corporation otherwise than by way of loan, that proportion of such part of the amount of the contribution as cannot reasonably be regarded as a gift made to or for the benefit of any other shareholder of the corporation who was related to the taxpayer that

(i) the amount that may reasonably be regarded as the increase in the fair market value, as a result of the contribution, of the share

is of

(ii) the amount that may reasonably be regarded as the increase in the fair market value, as a result of the contribution, of all shares of the capital stock of the corporation owned by the taxpayer immediately after the contribution;

(d) where the property is a share of the capital stock of a foreign affiliate of the taxpayer, any amount required by paragraph 92(1)(a) to be added in computing the adjusted cost base to him of the share;

(e) where the property is an interest in a partnership,

(i) an amount in respect of each fiscal period of the partnership ending after 1971 and before that time, equal to the aggregate of all amounts each of which is the taxpayer's share of the income of the partnership from any source for that fiscal period, computed as if this Act were read without reference to

(A) the references in paragraph 38(1)(a) and subsection 41(1) to "1/2", and

(B) paragraph (i) of this subsection, section 55, paragraph 82(1)(b) and the provisions of the *Income Tax Application Rules, 1971* relating to income from the operation of new mines,



(ii) the taxpayer's share of any capital dividends received by the partnership before that time on shares of the capital stock of a corporation that were partnership property, and

(iii) where the taxpayer has, after 1971, made a contribution of capital to the partnership otherwise than by way of loan, such part of the amount of the contribution as cannot reasonably be regarded as a gift made to or for the benefit of any other member of the partnership who was related to the taxpayer;

(f) where the property is substituted property of the taxpayer within the meaning of paragraph 54(i), the amount of the loss that was, by virtue of the acquisition by the taxpayer of the property, a superficial loss of any taxpayer;

(g) where the property is a bond, debenture, bill, note, mortgage, hypothec or similar obligation, the amount, if any, by which the principal amount of the obligation exceeds the amount for which the obligation was issued, if such excess was required by subsection 16(2) or (3) to be included in computing the income of the taxpayer for a taxation year commencing before that time;

(h) where the property is land of the taxpayer, any amount paid by him after 1971 and before that time pursuant to a legal obligation to pay

(i) interest on borrowed money used to acquire the land, or on an amount payable by him for the land, or

(ii) property taxes (not including income or profits taxes or taxes imposed by reference to the transfer of property) paid by him in respect of the property to a province or to a Canadian municipality

to the extent that that amount was, by virtue of subsection 18(2), not deductible in computing his income from the land or from a business for any taxation year commencing before that time;

(i) where the property is land used in a farming business carried on by the taxpayer, an amount in respect of each taxation year ending after 1971 and commencing before that time, equal to the taxpayer's loss, if any, for that year from the farming business, to the extent that such loss

(i) was not, by virtue of section 31, deductible in computing the taxpayer's income for that year,

(ii) was not deductible in computing the taxpayer's taxable income for the taxation year in which the taxpayer disposed of the property or any previous taxation year,

(iii) did not exceed the aggregate of

(A) taxes (other than income or profits taxes or taxes imposed by reference to the transfer of the property) paid by the taxpayer in that year or payable by him in respect of that year to a province or a Canadian municipality in respect of the property, and

(B) interest, paid by the taxpayer in that year or payable by him in respect of that year, pursuant to a legal obligation to pay interest on borrowed money used to acquire the property or on any amount as consideration payable for the property,

to the extent that such taxes and interest were included in computing the loss, and

(iv) did not exceed the remainder obtained when

(A) the aggregate of each of the taxpayer's losses from the farming business for taxation years preceding that year (to the extent that they are required by this paragraph to be added in computing the taxpayer's adjusted cost base of the property),

is deducted from

(B) the amount, if any, by which the taxpayer's proceeds of disposition of the property exceed the adjusted cost base to him of the property immediately before that time, determined without reference to this paragraph; and

(j) where the property is a share in respect of the acquisition of which a benefit was deemed by section 7 to have been received by the taxpayer in any taxation year ending after 1971 and commencing before that time, the amount of the benefit so deemed to have been received.

Amounts  
to be  
deducted

(2) In computing the adjusted cost base to a taxpayer of property at any time, there shall be deducted such of the following amounts in respect of the property as are applicable:

(2). New

(a) where the property is a share of the capital stock of a corporation resident in Canada,

(i) any amount received by the taxpayer after 1971 and before that time as, on account or in lieu of payment of, or in satisfaction of, a dividend on the share (other than a taxable dividend or capital dividend),

(ii) an amount in respect of any taxable dividend on the share received by the taxpayer after 1971 and before that time, on any portion of which tax under Part VII was payable by the taxpayer, equal to the amount by which that portion exceeds the tax under Part VII payable thereon,

(iii) an amount in respect of any taxable dividend on the share received by the taxpayer after 1971 and before that time while he was not resident in Canada in respect of which tax under Part VIII was payable by the corporation, equal to the amount, if any, by which

*Subsection 53(2)*

(A) that proportion of the dividend that such part of all dividends that were paid by the corporation at the time the dividend was paid as was paid out of designated surplus (within the meaning of Part VII) is of all dividends that were paid by the corporation at the time the dividend was paid

exceeds

(B) such part of any tax under Part XIII that was payable by the taxpayer on the dividend as may reasonably be considered to have been payable on the proportion of the dividend described in clause (A), and

(iv) any amount received by the taxpayer after 1971 and before that time on a reduction of the paid-up capital of the corporation in respect of the share, except to the extent that that amount is deemed by subsection 84(4) to be a dividend received by him;

(b) where the property is a share of the capital stock of a corporation not resident in Canada, any amount required by subsection 92(1) or (2) or subsection 93(1) to be deducted in computing the adjusted cost base to the taxpayer of the share;

(c) where the property is an interest in a partnership,

(i) an amount in respect of each fiscal period of the partnership ending after 1971 and before that time, equal to the aggregate of amounts each of which is the taxpayer's share of any loss of the partnership from any source for that fiscal period, computed as if this Act were read without reference to

(A) the reference in paragraph 38(1)(b) to "1/2", and

(B) section 31, subsection 40(2) and section 55,

(ii) an amount in respect of each fiscal period of the partnership ending after 1971 and before that time, equal to the taxpayer's share of the aggregate of



(A) amounts that, but for paragraph 96(1)(d), would be deductible in computing the income of the partnership for the fiscal period by virtue of subsection 65(1) or the provisions of the *Income Tax Application Rules, 1971* relating to exploration and development expenses, and

(B) the Canadian exploration and development expenses and foreign exploration and development expenses (within the meaning assigned by subsection 66(15)) if any, incurred by the partnership in the fiscal period,

(iii) any amount deemed by subsection 110(5) to have been a gift made by the taxpayer by virtue of his membership in the partnership at the end of any fiscal period of the partnership ending before that time,

(iv) any amount deductible under subsection 113(3) in computing the taxable income of the taxpayer for a taxation year in respect of any amount that, by virtue of his membership in the partnership, was included in computing his income for the year by virtue of subsection 91(1), and

(v) any amount received by the taxpayer after 1971 and before that time as, on account or in lieu of payment of, or in satisfaction of, a distribution of his share of the partnership profits or partnership capital;

(d) where the property is such that the taxpayer has, after 1971 and before that time, disposed of a part of it while retaining another part of it, the amount determined under section 43 to be the adjusted cost base to the taxpayer of the part so disposed of;

(e) where the property is a share, or an interest therein or right thereto, of the capital stock of a corporation, the consideration therefor paid by the taxpayer, to the extent that the consideration was a legal obligation described in subparagraph 66(15)(b)(v);

(f) where the property was received by the taxpayer as consideration for any payment

- (i) made by the taxpayer as a shareholder corporation (within the meaning assigned by subsection 66(15)) to a joint exploration corporation of the shareholder, and
- (ii) described in subparagraph 66(15)(a)(i),

such portion of the payment as may reasonably be considered to be related to an agreed portion (within the meaning assigned by paragraph 66(15)(a)) of the joint exploration corporation's Canadian exploration and development expenses;

(g) where section 80 is applicable in respect of the taxpayer, the amount, if any, by which the adjusted cost base to the taxpayer of the property is required in prescribed manner to be reduced before that time;

(h) where the property is

- (i) a capital interest in a trust that was purchased by the taxpayer, or
- (ii) a unit of a unit trust,

any amount paid to the taxpayer by the trust after 1971 and before that time as, on account or in lieu of payment of, or in satisfaction of a distribution or payment of capital, otherwise than as proceeds of disposition of the interest or unit, as the case may be, or of a part thereof;

(i) where the property is a capital interest in a trust (other than a unit trust) not resident in Canada that was purchased after 1971 by the taxpayer from a non-resident person at a time when the fair market value of such of the properties of the trust as were taxable Canadian properties was not less than 50% of the aggregate of the fair market value of all properties of the trust and the amount of any money of the trust on hand, that proportion of the amount, if any, by which

- (i) the fair market value at that time of such of the properties of the trust as were taxable Canadian properties,

exceeds

- (ii) the aggregate of the adjusted cost bases to the trust at that time of such of the properties of the trust as were taxable Canadian properties,

that the fair market value at that time of the interest is of the fair market value at that time of all capital interests in the trust;

(j) where the property is a unit of a unit trust not resident in Canada that was purchased after 1971 by the taxpayer from a non-resident person at a time when the fair market value of such of the properties of the trust as were taxable Canadian properties was not less than 50% of the aggregate of the fair market value of all properties of the trust and the amount of any money of the trust on hand, that proportion of the amount, if any, by which

(i) the fair market value at that time of such of the properties of the trust as were taxable Canadian properties

exceeds

(ii) the aggregate of the adjusted cost bases to the trust at that time of such of the properties of the trust as were taxable Canadian properties,

that the fair market value at that time of the unit is of the fair market value at that time of all of the issued units of the trust;

(k) any grant, subsidy or other assistance from a government, municipality or other public authority received by the taxpayer for or in respect of the acquisition by him after 1971 of the property;

(l) where the property is a bond, debenture or similar security (other than an income bond or income debenture), any amount that was deductible by virtue of subsection 20(14) in computing the taxpayer's income for any taxation year commencing before that time in respect of interest thereon; and

(m) such part of the cost to the taxpayer of the property as was deductible (otherwise than by virtue of this subdivision) in computing the taxpayer's income for any taxation year commencing before that time.

## Section 53

Application  
of paras.  
(2)(i) and  
(j)

(3) For the purposes of paragraphs (2)(i) and (j), where any property of a trust would, at a particular time have been a taxable Canadian property of the trust if it had been disposed of by the trust at that time, the property shall be deemed to have been a taxable Canadian property of the trust at that time.

(3). New

Definitions

54. In this subdivision,

54. New

"Adjusted  
cost base"

(a) "adjusted cost base" to a taxpayer of any property at any time means, except as otherwise provided,

(i) where the property is depreciable property of the taxpayer, the capital cost to him of the property as of that time, and

(ii) in any other case, the cost to the taxpayer of the property adjusted, as of that time, in accordance with section 53, except that in no case shall the adjusted cost base of any property at the time of its disposition by the taxpayer be less than nil;

"Capital  
property"

(b) "capital property" of a taxpayer means

(i) any depreciable property of the taxpayer, and

(ii) any property (other than depreciable property), any gain or loss from the disposition of which would, if the property were disposed of, be a capital gain or a capital loss, as the case may be, of the taxpayer;

"Disposition"  
of property

(c) "disposition" of any property, except as expressly otherwise provided, includes

(i) any transaction or event entitling a taxpayer to proceeds of disposition of property,

(ii) any transaction or event by which

(A) any property of a taxpayer that is a share, bond, debenture, note, certificate, mortgage, hypothec, agreement of sale or similar property, or an interest therein, is redeemed in whole or in part or is cancelled,

(B) any debt owing to a taxpayer or any other right of a taxpayer to receive an amount is settled or cancelled,



(C) any share owned by a taxpayer is converted by virtue of an amalgamation, or

(D) any option held by a taxpayer to acquire or dispose of property expires, and

(iii) any transfer of property to a trust, or any transfer of property of a trust to any beneficiary under the trust, except as provided in subparagraph (v),

but, for greater certainty, does not include

(iv) any transfer of property for the purpose only of securing a debt or a loan, or any transfer by a creditor for the purpose only of returning property that had been used as security for a debt or a loan,

(v) any transfer of property by virtue of which there is a change in the legal ownership of the property without any change in the beneficial ownership thereof,

(vi) any issue by a corporation of a bond, debenture, note, certificate, mortgage or hypothec of the corporation, or

(vii) any issue by a corporation of a share of its capital stock, or any other transaction that, but for this subparagraph, would be a disposition by a corporation of a share of its capital stock;

“Eligible capital property”

(d) “eligible capital property” of a taxpayer means any property, 1/2 of any amount payable to the taxpayer as consideration for the disposition of which would, if he disposed of the property, be an eligible capital amount in respect of a business within the meaning given that expression in subsection 14(1);

“Listed personal property”

(e) “listed personal property” of a taxpayer means his personal-use property that is all or any portion of, or any interest in or right to, any

- (i) print, etching, drawing, painting, sculpture, or other similar work of art,
- (ii) jewellery,
- (iii) rare folio, rare manuscript, or rare book,
- (iv) stamp, or
- (v) coin;

“Personal-use property”

(f) “personal-use property” of a taxpayer includes

- (i) property owned by him that is used primarily for the personal use or enjoyment of the taxpayer or for the personal use or enjoyment of one or more individuals each of whom is either the taxpayer or a person related to him,
- (ii) any debt owing to him in respect of the disposition of property that was his personal-use property, and
- (iii) any property of the taxpayer that is an option to acquire property that would, if he acquired it, be personal-use property of the taxpayer;

“Principal residence”

(g) “principal residence” of a taxpayer for a taxation year means a housing unit, or a share of the capital stock of a co-operative housing corporation, owned, whether jointly with another person or otherwise, in the year by the taxpayer, if the housing unit was, or if the share was acquired for the sole purpose of acquiring the right to inhabit a housing unit owned by the corporation that was,

- (i) ordinarily inhabited by the taxpayer in the year, or
  - (ii) property in respect of which the taxpayer has made an election for the year in accordance with subsection 45(2),
- except that in no case shall any such housing unit or share, as the case may be, be considered to be a taxpayer’s principal residence for a year

- (iii) unless it has been designated by him in prescribed manner to be his principal

residence for that year and no other property has been so designated by him for that year, or

(iv) by virtue of subparagraph (ii), if by virtue of that subparagraph the property would, but for this subparagraph, have been his principal residence for four or more previous taxation years,

and for the purposes of this paragraph the "principal residence" of a taxpayer for a taxation year shall be deemed to include, except where the property consists of a share of the capital stock of a co-operative housing corporation, the land subjacent to the housing unit and such portion of any immediately contiguous land as may reasonably be regarded as contributing to the taxpayer's use and enjoyment of the housing unit as a residence, except that where the total area of the subjacent land and of that portion exceeds one acre, the excess shall be deemed not to have contributed to the individual's use and enjoyment of the housing unit as a residence unless the taxpayer establishes that it was necessary to such use and enjoyment;

(h) "proceeds of disposition" of property includes,

(i) the sale price of property that has been sold,

(ii) compensation for property unlawfully taken,

(iii) compensation for property destroyed, and any amount payable under a policy of insurance in respect of loss or destruction of property,

(iv) compensation for property taken under statutory authority or the sale price of property sold to a person by whom notice of an intention to take it under statutory authority was given,

(v) compensation for property injuriously affected, whether lawfully or unlawfully or under statutory authority or otherwise,

"Proceeds of disposition"

(vi) compensation for property damaged and any amount payable under a policy of insurance in respect of damage to property, except to the extent that such compensation or amount, as the case may be, has within a reasonable time after the damage been expended on repairing the damage,

(vii) an amount by which the liability of a taxpayer to a mortgagee is reduced as a result of the sale of mortgaged property under a provision of the mortgage, plus any amount received by the taxpayer out of the proceeds of such sale, and

(viii) any amount included in computing a taxpayer's proceeds of disposition of the property by virtue of paragraph 79(c)

but notwithstanding any other provision of this Part does not include any amount that would otherwise be proceeds of disposition of a share to the extent that such amount is deemed by subsection 84(2) or (3) to be a dividend; and

(i) "superficial loss" of a taxpayer means his loss from the disposition of a property in any case where

(i) the same or identical property (in this paragraph referred to as "substituted property") was acquired, during the period beginning 30 days before the disposition and ending 30 days after the disposition, by the taxpayer, his spouse or a corporation controlled, whether directly or indirectly in any manner whatever, by him, and

(ii) at the end of the period referred to in subparagraph (i) the taxpayer, his spouse or the corporation, as the case may be, owned the substituted property,

except that a loss otherwise described in this paragraph shall be deemed not to be a superficial loss if the disposition giving rise to the loss

"Superficial  
loss"



## Section 54

(iii) was a disposition deemed by section 48 or 70 or subsection 104(4) to have been made,

(iv) was the expiry of an option, or

(v) was a disposition of property by the taxpayer to which subsection 85(4) applies.

Avoidance

55. For the purposes of this subdivision, where the result of one or more sales, exchanges, declarations of trust, or other transactions of any kind whatever is that a taxpayer has disposed of property under circumstances such that he may reasonably be considered to have artificially or unduly

(a) reduced the amount of his gain from the disposition,

(b) created a loss from the disposition, or

(c) increased the amount of his loss from the disposition,

the taxpayer's gain or loss, as the case may be, from the disposition of the property shall be computed as if such reduction, creation or increase, as the case may be, had not occurred.

55. New

## Subdivision d —

## Other Sources of Income

Amounts to be included in income for year

56. (1) Without restricting the generality of section 3, there shall be included in computing the income of a taxpayer for a taxation year,

(a) any amount received in the year as, on account or in lieu of payment of, or in satisfaction of,

(i) a superannuation or pension benefit, including, without limiting the generality of the foregoing,

(A) the amount of any pension or supplement under the *Old Age Security Act* and the amount of any similar payment under a law of a province, and

56. (1).

(a) Paragraph 6(1)(a), modified

Pension benefits, strike pay and unemployment insurance benefits

(B) the amount of any benefit under the *Canada Pension Plan* or a provincial pension plan as defined in section 3 of that Act,

but not including

(C) the amount of any social assistance payment made on a means or a needs test basis,

1. by a registered Canadian charitable organization, or

2. under a prescribed program provided for by an Act of the Parliament of Canada or a law of a province,

(ii) a retiring allowance,

(iii) a death benefit,

(iv) a benefit under the *Unemployment Insurance Act, 1971*,

(v) a benefit under regulations made under an *Appropriation Act* providing for a scheme of transitional assistance benefits to persons employed in the production of products to which the Canada-United States Agreement on Automotive Products, signed on January 16, 1965 applies, or

(vi) a benefit under any law of Canada providing for a scheme of adjustment assistance benefits to persons employed in the production of textile and clothing goods;

Alimony

(b) any amount received by the taxpayer in the year, pursuant to a decree, order or judgment of a competent tribunal or pursuant to a written agreement, as alimony or other allowance payable on a periodic basis for the maintenance of the recipient thereof, children of the marriage, or both the recipient and children of the marriage, if the recipient was living apart from, and was separated pursuant to a divorce, judicial separation or written separation agreement from, the spouse or former spouse required to make the payment at the time the payment was received and throughout the remainder of the year;

(b). Paragraph 6(1)(d)

*Subsection 56(1)*

|  |  |                                   |
|--|--|-----------------------------------|
| Maintenance where recipient living apart from spouse | (c) any amount received by the taxpayer in the year, pursuant to an order of a competent tribunal, as an allowance payable on a periodic basis for the maintenance of the recipient thereof, children of the marriage, or both the recipient and children of the marriage, if the recipient was living apart from the spouse required to make the payment at the time the payment was received and throughout the remainder of the year; | (c). Paragraph 6(1)(da)           |
| Annuity payments                                     | (d) any amount received by the taxpayer in the year as an annuity payment except to the extent that the payment is otherwise required to be included in computing his income for the year;   | (d). Paragraph 6(1)(aa), modified |
| Disposition of income-averaging annuity contract     | (e) any amount received by the taxpayer in the year as, on account or in lieu of payment of, or in satisfaction of, proceeds of the surrender, cancellation, redemption, sale or other disposition of an income-averaging annuity contract;  | (f). New                          |
| Idem   | (f) any amount deemed by subsection 61(3) to have been received by the taxpayer in the year as proceeds of the disposition of the income-averaging annuity contract;   | (f) New                           |
| Supplementary unemployment benefit plan              | (g) amounts received by the taxpayer in the year from a trustee under a supplementary unemployment benefit plan as provided by section 145;  | (g). Paragraph 6(1)(m)            |
| Registered retirement savings plan                   | (h) amounts in respect of a registered retirement savings plan required by section 146 to be included in computing the taxpayer's income for the year;   | (h). Paragraph 6(1)(n), modified  |
| Deferred profit sharing plan                         | (i) amounts received by the taxpayer in the year under a deferred profit sharing plan as provided by section 147;  | (i). Paragraph 6(1)(o)            |

## Subsection 56(1)

|                                      |   |                          |
|--------------------------------------|---|--------------------------|
| Life insurance policy proceeds       | (j) amounts that the taxpayer became entitled to receive in the year upon the disposition of an interest in a life insurance policy, to the extent provided by section 148;   | (j). Paragraph 6(1)(oa)  |
| Allocations under insurance policies | (k) amounts allocated to the taxpayer in the year by an insurer as provided by paragraph 148(1)(b);   | (k). Paragraph 61(1)(ob) |
| Legal costs                          | (l) amounts received by the taxpayer in the year as legal costs awarded to him by a court on an appeal in relation to an assessment of tax, interest or penalties under this Act, if with respect to that assessment an amount has been deducted or may be deductible under paragraph 60(o) in computing his income;                    | (l). Paragraph 6(1)(q)   |
| Adult training allowance             | (m) amounts received by the taxpayer in the year as or on account of an adult training allowance paid to him under the <i>Adult Occupational Training Act</i> , except to the extent that they were paid to him as or on account of an allowance for his personal or living expenses while he was living away from home;                | (m). New                 |
| Scholarships, bursaries, etc.        | (n) the amount, if any, by which<br>(i) the aggregate of all amounts received by the taxpayer in the year, each of which is an amount received by him as or on account of a scholarship, fellowship or bursary, or a prize for achievement in a field of endeavour ordinarily carried on by the taxpayer,<br>exceeds<br>(ii) \$500; and | (n). New                 |
| Research grants                      | (o) the amount, if any, by which any grant received by the taxpayer in the year to enable him to carry on research or any similar work exceeds the aggregate of expenses incurred by him in the year for the purpose of carrying on the work, other than  | (o). New                 |



*Subsection 56(1)*

- (i) personal or living expenses of the taxpayer except travelling expenses (including the entire amount expended for meals and lodging) incurred by him while away from home in the course of carrying on the work,
- (ii) expenses in respect of which he has been reimbursed, or
- (iii) expenses that are otherwise deductible in computing his income for the year.

Indirect  
payments

(2) A payment or transfer of property made pursuant to the direction of, or with the concurrence of, a taxpayer to some other person for the benefit of the taxpayer or as a benefit that the taxpayer desired to have conferred on the other person shall be included in computing the taxpayer's income to the extent that it would be if the payment or transfer had been made to him.

(2). Subsection 16(1)

Undistri-  
buted  
payments  
or  
profits

(3) For the purposes of this Part, a payment or transfer in a taxation year of property made to the taxpayer or some other person for the benefit of the taxpayer and other persons jointly or a profit made by the taxpayer and other persons jointly in a taxation year shall be deemed to have been received by the taxpayer in the year to the extent of his interest therein notwithstanding that there was no distribution or division thereof in that year.

(3). Subsection 16(2)

Transfer  
of rights  
to income

(4) Where a taxpayer has, at any time before the end of a taxation year (whether before or after the end of 1971), transferred or assigned to a person with whom he was not dealing at arm's length the right to an amount that would, if the right thereto had not been so transferred or assigned, be included in computing his income for the taxation year because the amount would have been received or receivable by him in or in respect of the year, the amount shall be included in computing the taxpayer's income for the taxation year unless the income is from property and the taxpayer has also transferred or assigned the property.

(4). Section 23

Certain  
superan-  
nuation  
or  
pension  
benefits

57. (1) Notwithstanding subparagraph 56(1)(a)(i), there shall be included in computing the income of a taxpayer in respect of a payment received by him out of or under a superannuation or pension fund or plan the investment income of which has at some time been exempt from taxation under the *Income War Tax Act* by reason of an election for such exemption by the trustees or corporation administering the fund or plan, only that part of the payment that remains after deducting the proportion thereof

(a) that the aggregate of the amounts paid by the taxpayer into or under the fund or plan during the period when its income was exempt by reason of such election is of the aggregate of all amounts paid by him into or under the fund or plan, or

(b) that the aggregate of the amounts paid by the taxpayer into or under the fund or plan during the period when its income was exempt by reason of such election together with simple interest on each amount so paid from the end of the year of payment thereof to the commencement of the superannuation allowance or pension at 3% per annum is of the aggregate of all amounts paid by him into or under the fund or plan together with simple interest as aforesaid on each amount so paid,

whichever is the greater.

57. (1). Subsection 77(1)

Exception

(2) This section does not apply in respect of a payment received by a taxpayer out of or under a superannuation or pension fund or plan if the taxpayer made no payment into or under the fund or plan.

(2). Subsection 77(2)

## Section 57

Limitation

(3) Where a payment, to which subsection (1) would otherwise be applicable, is received by a taxpayer out of or under a superannuation or pension fund or plan in respect of a period of service for part only of which he made payments into or under the fund or plan, subsection (1) is applicable only to that part of the payment which may reasonably be regarded as having been received in respect of the period for which he made payments into or under the fund or plan and any part of the payment which may reasonably be regarded as having been received in respect of a period for which he made no payments into or under the fund or plan shall be included in computing his income for the year without any deduction whatever.

(3). Subsection 77(3)

Certain  
payments  
from  
pension  
fund

(4) Where a taxpayer, during the period from August 15, 1944, to December 31, 1945, made a contribution in excess of \$300 to or under a registered pension fund or plan in respect of services rendered by him before he became a contributor, there shall be included in computing his income in respect of a payment received by him out of or under the fund or plan only that part of the payment that remains after deducting the proportion thereof that the contribution so made minus \$300 is of the aggregate of the amounts paid by him to or under the fund or plan.

(4). Subsection 77(4)

Payments  
to widow,  
etc., of  
contribu-  
tor

(5) Where, in respect of the death of a taxpayer who was a contributor to or under a superannuation or pension fund or plan described in subsection (1) or (4), a payment is received by a person in a taxation year out of or under the fund or plan, there shall be included in computing the income of that person for the year in respect thereof only that part of the payment that would, if the payment had been received by the taxpayer in the year out of or under the fund or plan, have been included by virtue of this section in computing the income of the taxpayer for the year.

(5). Subsection 77(5)

Government  
annuities  
and like  
annuities

58. (1) In determining the amount that shall be included in computing the income of a taxpayer in respect of payments received by him in a taxation year under contracts entered into before May 26, 1932 with the Government of Canada or annuity contracts like those issued under the *Government Annuities Act* entered into before that day with the government of a province or a corporation incorporated or licensed to carry on an annuities business in Canada, there may be deducted from the aggregate of the payments received the lesser of

(a) the aggregate of the amounts that would have been so received if the contracts had continued in force as they were immediately before June 25, 1940, without the exercise of any option or contractual right to enlarge the annuity by the payment of additional sums or premiums unless such additional sums or premiums had been paid before that day, and

(b) \$5,000.

58. (1). Subsection 78(1)

Annuities  
before  
1940

(2) In determining the amount that shall be included in computing the income of a taxpayer in respect of payments received by him in a taxation year under annuity contracts entered into after May 25, 1932, and before June 25, 1940, with the Government of Canada or annuity contracts like those issued under the *Government Annuities Act* entered into during that period with the government of a province or a corporation incorporated or licensed to carry on an annuities business in Canada, there may be deducted from the aggregate of the payments received the lesser of

(2). Subsection 78(2)



*Subsection 58(2)*

(a) the aggregate of the amounts that would have been received under the contracts if they had continued in force as they were immediately before June 25, 1940, without the exercise of any option or contractual right to enlarge the annuity by the payment of additional sums or premiums unless such additional sums or premiums had been paid before that day, and

(b) \$1,200.

**Limitation**

(3) Where a taxpayer has received annuity payments in respect of which he would otherwise be entitled to make deductions under both subsection (1) and subsection (2),

(a) if the amount deductible under subsection (1) is \$1,200 or more, he may not make a deduction under subsection (2), and

(b) if the amount deductible under subsection (1) is less than \$1,200, he may make one deduction computed as though subsection (2) applied to all contracts entered into before June 25, 1940.

(3). Subsection 78(3)

**Capital element**

(4) The amount remaining after deducting from the aggregate of the annuity payments to which this section applies received in a taxation year the deductions permitted by subsection (1), (2) or (3) shall be deemed to be the annuity payment in respect of which the capital element is deductible under paragraph 60(a).

(4). Subsection 78(4)

**Husband and wife**

(5) Where a husband and wife have each received annuity payments in respect of which they may make a deduction under this section, the amount deductible shall be computed as if their annuities belonged to one person and may be deducted by either of them or apportioned between them in such manner as may be agreed by them or, in case of disagreement, as the Minister may determine.

(5). Subsection 78(5)

**Pension benefits**

(6) This section does not apply to superannuation or pension benefits received out of or under a registered pension fund or plan.

(6). Subsection 78(6)

## Section 58

Enlarge-  
ment of  
annuity

(7) For the purpose of this section, an annuity shall be deemed to have been enlarged on or after June 25, 1940, if what is payable under the contract has, at any such time, been increased whether by increasing the amount of each periodic payment, by increasing the number of payments or otherwise.

(7). Subsection 78(7)

Amount  
receivable  
as considera-  
tion for dis-  
position of  
resource  
property

59. (1) Where in a taxation year a taxpayer disposes of

- (a) a Canadian resource property,
- (b) a foreign resource property, or
- (c) any right, licence or privilege described in subsection 83A(5a) of this Act as it read in its application to the 1971 taxation year, that was acquired by the taxpayer after April 10, 1962 and before 1972 under an agreement or other contract or arrangement described therein,

the amount receivable by the taxpayer as consideration for the disposition thereof shall be included in computing his income for the year, notwithstanding that the amount or any part thereof may not be received until a subsequent taxation year.

59. (1). New

Amount  
deducted  
under s. 64  
in preceding  
year

(2) There shall be included in computing a taxpayer's income for a taxation year any amount in respect of

- (a) a Canadian resource property,
- (b) a foreign resource property, or
- (c) any property referred to in paragraph (1)(c) or paragraph (3) (a) or (b),

that has been deducted under section 64 in computing his income for the immediately preceding taxation year.

(2). New

Disposition  
of resource  
property  
acquired  
before 1972

(3) Where a taxpayer has made a disposition after 1971 of property owned by him on December 31, 1971 that

- (a) is property described in any of subparagraphs 66(15)(c)(i) to (vi) and is not property described in paragraph (1)(c), or
- (b) would be property described in subparagraphs 66(15)(c)(i) to (vi) if the references therein to "in Canada" were read as references to "outside Canada",

(3). New

the following rules apply:

(c) the relevant percentage of the amount receivable by the taxpayer as consideration for the disposition thereof shall be included in computing his income for his taxation year in which the disposition was made, notwithstanding that the amount or any part thereof may not be received until a subsequent taxation year; and

(d) where the taxpayer and the person who acquired the property were not dealing with each other at arm's length, for the purposes of this section, section 64 and section 66

(i) the cost to that person of the property shall be deemed to be the amount included in the taxpayer's income by virtue of paragraph (c) in respect of the disposition by the taxpayer of the property, and

(ii) when that person subsequently disposes of the property or any right or interest therein, the amount receivable by that person as consideration for the disposition shall be deemed to be the relevant percentage of the amount actually receivable by that person as consideration therefor.

Determination  
of "relevant  
percentage"

(4) For the purposes of paragraphs (3)(c) and (d), the "relevant percentage" of any amount receivable as consideration for the disposition of property is 60% plus the percentage (not exceeding 40%) obtained when 5% is multiplied by the number of full calendar years in the period commencing at the end of 1972 and ending with the end of the calendar year in which the disposition was made.

(4). New

Interpre-  
tation

(5) In this section, "Canadian resource property" and "foreign resource property" have the meanings assigned by section 66.

(5). New

Subdivision e —  
Deductions in Computing Income

**60.** There may be deducted in computing a taxpayer's income for a taxation year such of the following amounts as are applicable:

(a) the capital element of each annuity payment (other than a superannuation or pension benefit, a payment under a registered retirement savings plan, a payment under an income-averaging annuity contract or a payment of an annuity paid or purchased pursuant to a deferred profit sharing plan) included in computing the taxpayer's income for the year, that is to say,

(i) if the annuity was paid under a contract, an amount equal to that part of the payment determined in prescribed manner to have been a return of capital, and

(ii) if the annuity was paid under a will or trust, such part of the payment as can be established by the recipient not to have been paid out of the income of the estate or trust;

(b) an amount paid by the taxpayer in the year, pursuant to a decree, order or judgment of a competent tribunal or pursuant to a written agreement, as alimony or other allowance payable on a periodic basis for the maintenance of the recipient thereof, children of the marriage, or both the recipient and children of the marriage, if he was living apart from, and was separated pursuant to a divorce, judicial separation or written separation agreement from, his spouse or former spouse to whom he was required to make the payment at the time the payment was made and throughout the remainder of the year;

**60.**

(a). Paragraph 11(1)(k), modified

(b). Paragraph 11(1)(l)

Other  
deductions

Capital  
element of  
annuity  
payments

Alimony  
payments



## Section 60

Maintenance  
payments

(c) an amount paid by the taxpayer in the year, pursuant to an order of a competent tribunal, as an allowance payable on a periodic basis for the maintenance of the recipient thereof, children of the marriage, or both the recipient and children of the marriage, if he was living apart from his spouse to whom he was required to make the payment at the time the payment was made and throughout the remainder of the year;

(c). Paragraph 11(1)(la)

Interest on  
death duties

(d) an amount equal to annual interest accruing within the taxation year in respect of succession duties, inheritance taxes or estate taxes;

(d). Paragraph 11(1)(o)

## Tuition fees

(e) where the taxpayer was during the year a student in full-time attendance at a university outside Canada in a course leading to a degree, the amount of any fees for his tuition paid to the university in respect of a period not exceeding 12 months commencing in the year and not included in the calculation of a deduction under this subsection for a previous year except any such fees

(e). Paragraph 11(1)(qb)

(i) paid in respect of a course of less than 13 consecutive weeks' duration, or

(ii) paid on his behalf by his employer to the extent that the amount thereof exceeds an amount included in his income for the year in which such payment was made in respect of such payment;

## Idem

(f) where the taxpayer was during the year a student enrolled at an educational institution in Canada

(f). Paragraph 11(1)(qc)

(i) that is a university, college or other educational institution providing courses at a post-secondary school level,

(ii) that is a school operated by or on behalf of Her Majesty in right of Canada or a province, a municipality in Canada, or a municipal or public body performing a function of government in Canada,

(iii) that is a high school or secondary school providing courses leading to a secondary school certificate or diploma that is a requirement for entrance to a college or university, or

(iv) that is certified by the Minister of Manpower and Immigration to be an educational institution by which courses are conducted that provide or improve the qualifications of a person for employment or for the carrying on of a business or profession,

the amount of any fees for his tuition paid to the educational institution in respect of a period not exceeding 12 months commencing in the year and not included in the calculation of a deduction under this subsection for a previous year, if such amount exceeds \$25, but where such amount was paid on his behalf by his employer, only the part thereof that does not exceed the amount included in his income for the year in which such payment was made in respect of such payment;

(g) where the taxpayer resided during the whole of the year in Canada near the boundary between Canada and the United States of America, if

(i) he was during the year a student enrolled at an educational institution in the United States that is a university, college or other educational institution providing courses at a post-secondary school level, and

(ii) he commuted to that educational institution in the United States,

the amount of any fees for his tuition paid to the educational institution in respect of a period not exceeding 12 months commencing in the year and not included in the calculation of a deduction under this subsection for a previous year, if such amount exceeds \$25, but where such amount was paid on his behalf by his employer, only the part thereof that does not exceed the

(g). New

Idem

amount included in his income for the year in which such payment was made in respect of such payment;

*Canada Pension Plan contributions*

(h) an amount payable by the taxpayer in respect of self-employed earnings for the year as a contribution under the *Canada Pension Plan* or under a provincial pension plan as defined in section 3 of the *Canada Pension Plan*;

(h). Paragraph 11(1)(x)

*Premium under registered retirement savings plan  
Transfer of superannuation benefits and retiring allowances*

(i) an amount paid by the taxpayer as a premium under a registered retirement savings plan as permitted by section 146;

(i). Paragraph 11(1)(t)

(j) such part of any amount included in computing the income of the taxpayer for the year by virtue of subparagraph 56(1)(a)(i) or (ii) or subsection 147(10) as does not exceed the amount by which

(j). Paragraph 11(1)(u), modified

(i) any amount paid by him in the year or within 60 days after the end of the year

(A) as a contribution to or under a registered pension fund or plan, or

(B) as a premium, as defined by section 146, under a registered retirement savings plan,

to the extent that it was not deductible in computing his income for the immediately preceding year,

exceeds

(ii) the aggregate of the amounts, if any, deductible under paragraph (l), paragraph 8(1)(m) or subsection 146(6) in computing his income for the year;

## Section 60

Transfers  
to  
deferred  
profit  
sharing  
plans

(k) the least of

(i) any amount paid by the taxpayer in the year or within 60 days after the end of the year to a trustee under a deferred profit sharing plan that had at least 5 beneficiaries at all times throughout the year, to the extent that it was not deductible in computing his income for the immediately preceding year,

(ii) any amount included in computing his income for the year by virtue of subsection 147(10), and

(iii) the amount by which

(A) the aggregate of amounts included in computing his income for the year by virtue of subparagraphs 56(1)(a)(i) and (ii) and subsection 147(10)

exceeds

(B) the amount, if any, deductible under paragraph (j) in computing his income for the year;

(l) the lesser of

(i) the amount, if any, by which

(A) the aggregate of amounts paid by the taxpayer in the year or within 60 days after the end of the year as a premium, as defined by section 146, under a registered retirement savings plan, to the extent that they were not deductible in computing his income for the immediately preceding year,

exceeds

(B) the aggregate of amounts deductible under paragraph (i) in computing his income for the year, and

(ii) any amount included in computing his income for the year by virtue of subsection 146(8) to the extent that that amount is a refund of premiums, as defined by section 146, under a registered retirement savings plan received by the taxpayer under the plan on or after the death of the person who was, immediately before his death,

(k). Paragraph 11(1)(ua)

(l). New

Transfer  
of refund  
of premium  
under  
registered  
retirement  
savings  
plan



(A) the annuitant thereunder, and

(B) the taxpayer's spouse;

(m) that proportion of any superannuation or pension benefit, death benefit, benefit under a registered retirement savings plan, benefit under a deferred profit sharing plan or benefit that is a payment under an income-averaging annuity contract, received by the taxpayer in the year, upon or after the death of a predecessor, in payment of or on account of property to which the taxpayer is the successor the value of which was required to be included in computing the aggregate net value of the property passing on the death of the predecessor for the purpose of Part I of the *Estate Tax Act* (or would have been so required to be included if the predecessor had been domiciled in Canada at the time of his death), that

(i) the aggregate of

(A) such part of any tax payable under the *Estate Tax Act* in respect of the death of the predecessor as is determined under that Act to be the part thereof applicable to the property in payment of or on account of which the benefit was so received, and

(B) such part of any succession duties payable under a law of a province in respect of the death of the predecessor as may reasonably be regarded as attributable to the property in payment of or on account of which the benefit was so received,

is of

(ii) the value of the property in payment of or on account of which the benefit was so received, computed as provided for the purpose of subsection 62(4) of the *Estate Tax Act*;

(m). Paragraph 11(1)(v), modified

## Section 60

- (n) the amount of any overpayment of
- (i) any pension or supplement described in clause 56(1)(a)(i)(A),
  - (ii) any benefit described in clause 56(1)(a)(i)(B), or
  - (iii) any benefit under the *Unemployment Insurance Act, 1971*

received by the taxpayer in a previous taxation year, to the extent of the amount thereof repaid by him in the year otherwise than by virtue of the deduction or withholding thereof from any other payment made to him in the year; and

(o) amounts paid by the taxpayer in the year in respect of fees or expenses incurred in preparing, instituting or prosecuting an objection to, or an appeal in relation to, an assessment of tax, interest or penalties under this Act.

Expenses  
of objec-  
tion or  
appeal

(n). New

(o). Paragraph 11(1)(w)

61. (1) In computing the income for a taxation year of an individual resident in Canada, there may be deducted an amount equal to the lesser of

(a) such amount as he may claim, not exceeding the aggregate of amounts each of which is a single payment

(i) made by him in the year or within 60 days after the end of the year as consideration for an income-averaging annuity contract of the individual, and

(ii) in respect of which no amount has been deducted in computing his income for the immediately preceding taxation year, and

(b) the amount, if any, by which the aggregate of

(i) the remainder obtained when the aggregate of the amounts deductible in computing the taxpayer's income for the year by virtue of paragraphs 60(j), (k) and (l) is deducted from the aggregate of amounts described in subsection

(2) in respect of the individual for the year,

Payment  
made as  
considera-  
tion for  
income-  
averaging  
annuity

61. (1). New

*Subsection 61(1)*

(ii) the amount determined under paragraph 3(b) in respect of the individual for the year,

(iii) the individual's income for the year from the production of a literary, dramatic, musical or artistic work, and

(iv) the individual's income for the year from his activities as an athlete, a musician or a public entertainer such as a theatre, motion picture, radio or television artist,

exceeds

(v) the aggregate of amounts each of which is the annual annuity amount of the individual in respect of an income-averaging annuity contract in respect of the consideration for which any amount has been deducted under this subsection in computing his income for the year.

Idem

(2) For the purposes of subsection (1), an amount described in this subsection in respect of an individual for a taxation year is any following amount:

(a) any single payment received by him in the year

(i) out of or under a superannuation or pension fund or plan

(A) upon the death, withdrawal or retirement from employment of an employee or former employee,

(B) upon the winding-up of the fund or plan in full satisfaction of all rights of the payee in or under the fund or plan, or

(C) to which the payee is entitled by virtue of an amendment to the plan although he continues to be an employee to whom the plan is applicable,

(ii) upon his retirement as an employee in recognition of long service and not made out of or under a superannuation fund or plan,

(2). New

- (iii) pursuant to an employees' profit sharing plan in full satisfaction of all his rights in or under the plan, to the extent that the amount thereof is required to be included in computing his income for the year in which the payment was received, or
- (iv) pursuant to a deferred profit sharing plan upon the death, withdrawal or retirement from employment of an employee or former employee, to the extent that the amount thereof is required to be included in computing the individual's income for the year;
- (b) a payment or payments made by an employer to the individual as an employee or former employee upon or after retirement in respect of loss of office or employment, if made in the year of retirement or within one year after that year;
- (c) a payment or payments paid to the individual as a death benefit, if paid in the year of death or within one year after that year;
- (d) any amount included in computing the individual's income for the year by virtue of subsection 146(8), to the extent that the amount is a refund of premiums, as defined by section 146, under a registered retirement savings plan received by the individual under the plan on or after the death of the person who was, immediately before his death, the annuitant thereunder;
- (e) any amount included in computing the individual's income for the year by virtue of section 13, 14 or 23, subsection 28(4) or (5) or paragraph 106(2)(a); and
- (f) any amount deemed by section 7 to be a benefit received by the individual in the year by virtue of his employment.



## Section 61

(3). New

(3) Where a contract that was at any time an income-averaging annuity contract of an individual has, at a subsequent time, ceased to be an income-averaging annuity contract otherwise than by virtue of the surrender, cancellation, redemption, sale or the disposition thereof, the individual shall be deemed to have received at that subsequent time as proceeds of the disposition of an income-averaging annuity contract an amount equal to the fair market value of the contract at that subsequent time and to have acquired the contract, as another contract not being an income-averaging annuity contract, immediately thereafter at a cost to him equal to that fair market value.

Where income-averaging annuity contract ceases to be such

Definitions

"Annual annuity amount"

"Income-averaging annuity contract"

(4) In this section,

(a) "annual annuity amount" of an individual in respect of an income-averaging annuity contract means the aggregate of the equal payments described in subparagraph (b)(iii) that, under the contract, are receivable by the individual in the 12-months' period commencing on the day that the first such payment under the contract becomes receivable by him; and

(b) "income-averaging annuity contract" of an individual means a contract

(i) between the individual and a person licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada an annuities business,

(ii) under which, in consideration of a single payment by the individual as consideration under the contract, that person agrees to pay to the individual, commencing at a time no later than 10 months after the individual has made the single payment,

(A) an annuity to the individual for his life, with or without a guaranteed term not exceeding the number of years that is the lesser of

1. 15, and

2. 85 minus the age of the individual at the time the annuity payments commence, or

(B) an annuity to the individual for a guaranteed term described in clause (A), and

(4). New

(iii) that does not provide for any payment thereunder except

(A) the single payment by the individual, and

(B) equal annuity payments that are to be made annually or at more frequent periodic intervals.

Moving  
expenses

**62. (1) Where a taxpayer**

(a) has, at any time,

(i) ceased to carry on business or to be employed at the location or locations, as the case may be, in Canada at which he ordinarily so carried on business or was so employed, or

(ii) ceased to be a student in full-time attendance at an educational institution in Canada that is a university, college or other educational institution providing courses at a post-secondary school level,

and commenced to carry on a business or to be employed at another location in Canada (hereinafter referred to as his "new work location"), or

(b) has, at any time, commenced to be a student in full-time attendance at an educational institution (hereinafter referred to as his "new work location") that is a university, college or other educational institution providing courses at a post-secondary school level,

and by reason thereof has moved from the residence in Canada at which, before the move, he ordinarily resided on ordinary working days (hereinafter referred to as his "old residence") to a residence in Canada at which, after the move, he ordinarily so resided (hereinafter referred to as his "new residence"), so that the distance between his old residence and his new work location is not less than 25 miles greater than the distance between his new residence and his new work location, in computing his income for the taxation year in which he moved from his old residence to his new residence or for the immediately following taxation year, there may be deducted amounts paid by him as or on account of moving

**62. (1). New**

(g) any reimbursement received by him for such expenses has been included in computing his income for the year.

be entitled to deduct an amount by virtue of that subsection in computing his income for a taxation year, that amount may be deducted in computing his income for the year.

(2). New

## Section 62

"Moving  
expenses"  
defined

(3) In subsection (1), "moving expenses" includes any expense incurred as or on account of

(3). New

(a) travelling costs (including a reasonable amount expended for meals and lodging), in the course of moving the taxpayer and members of his household from his old residence to his new residence,

(b) the cost to him of transporting or storing household effects in the course of moving from his old residence to his new residence,

(c) the cost to him of meals and lodging near the old residence or the new residence for the taxpayer, and members of his household for a period not exceeding 15 days,

(d) the cost to him of cancelling the lease, if any, by virtue of which he was the lessee of his old residence, and

(e) his selling costs in respect of the sale of his old residence.

Child  
care  
expenses

63. (1) There may be deducted in computing the income for a taxation year of a taxpayer who is

63. (1). New

(a) a woman, or

(b) a man

(i) who at any time in the year was not married,

(ii) who at any time in the year was separated from his wife pursuant to a written agreement,

(iii) whose wife is certified by a qualified medical practitioner to be a person who,

(A) by reason of mental or physical infirmity, and her confinement throughout a period of not less than 2 weeks in the year to bed, to a wheelchair or as a patient in a hospital, asylum or other similar institution, was incapable of caring for children, or

(B) by reason of mental or physical infirmity, was in the year, and is likely to be for a long-continued period of indefinite duration, incapable of caring for children, or



## Subsection 63(1)

(iv) whose wife was confined to prison throughout a period of not less than 2 weeks in the year,

amounts paid by the taxpayer in the year as or on account of child care expenses in respect of the taxpayer's children, to the extent that

(c) payment of the amounts is proven by filing with the Minister receipts each of which contains the Social Insurance Number of any individual payee who issued the receipt, and

(d) the aggregate of the amounts so paid by the taxpayer in the year does not exceed the least of

(i) \$2,000,

(ii) the product obtained when \$500 is multiplied by the number of the taxpayer's children in respect of whom the child care expenses were incurred, and

(iii)  $\frac{2}{3}$  of the taxpayer's earned income for the year.

Application  
of ss. (1)  
in certain  
cases

(2) For the purposes of subsection (1), (2). New

(a) where the taxpayer is a man, subparagraph (1)(d)(i) shall be read as follows:

"(i) the lesser of \$2,000 and an amount equal to the product obtained when the number of weeks in the year throughout which

(A) he was not married,

(B) he was separated from his wife pursuant to a written agreement, or

(C) his wife was confined as described in clause (b)(iii)(A) or subparagraph

(b)(iv),

as the case may be, is multiplied by the lesser of \$60 and the product obtained when \$15 is multiplied by the number of children in respect of whom the child care expenses were incurred"; and

(b) where the taxpayer is a wife described in subparagraph (1)(b)(iii) or (iv),

(i) subparagraph (1)(d)(i) shall be read as follows:

"(i) \$2,000 minus the amount deductible by virtue of this section in computing the income for the year of the taxpayer's spouse", and

(ii) subparagraph (1)(d)(ii) shall be read as follows:

“(ii) the amount, if any, by which  
(A) the product obtained when \$500 is multiplied by the number of his children in respect of whom the child care expenses were incurred,

exceeds

(B) the amount deductible by virtue of this section in computing the income for the year of the taxpayer's spouse”.

#### Definitions

“Child  
care  
expense”

(3) In this section,

(a) “child care expense” of a taxpayer means an expense incurred by the taxpayer for the purpose of providing in Canada, for any child of the taxpayer, child care services including baby sitting services, day nursery services or lodging at a boarding school or camp, if

(i) the child was, during the year, ordinarily in the custody of the taxpayer and

(A) under 14 years of age, or

(B) 14 years of age or over and dependent by reason of mental or physical infirmity,

(ii) the services were provided to enable the taxpayer to perform the duties of an office or employment or to carry on a business either alone or as a partner actively engaged in the business, and

(iii) the services were provided by a resident of Canada other than a person

(A) in respect of whom a deduction has been made under section 109 in computing the taxable income for the year of the taxpayer or his spouse, or

(B) who, during the year, was under 21 years of age and connected with the taxpayer or his spouse by blood relationship, marriage or adoption,

except that

(iv) any such expenses incurred in the year for a child's lodging at a boarding school or camp, to the extent that the aggregate thereof exceeds the product obtained when \$15 is multiplied by the

(3). New

*Subsection 63(3)*

number of weeks in the year during which the child was so lodged, and  
 (v) for greater certainty, any expenses described in paragraph 110(1)(c) and any other expenses that are incurred for medical or hospital care, clothing, transportation or education or for board and lodging (except as otherwise expressly provided in this paragraph),

are not child care expenses; and

(b) "earned income" of a taxpayer means the aggregate of

- (i) his incomes from all offices and employments,
- (ii) amounts included in computing his income by virtue of paragraph 56(1)(m), (n) or (o), and
- (iii) his incomes from all businesses carried on either alone or as a partner actively engaged in the business.

"Earned income"

Reserve in respect of consideration for disposition of resource property not receivable until subsequent year

64. (1) In computing a taxpayer's income for a taxation year (in this subsection referred to as the "current year"), where

- (a) by virtue of subsection 59(1) or (3), an amount has been included in computing the taxpayer's income for the current year or a previous year, or
- (b) by virtue of subsection 83A(5ba) or (5c) of this Act as it read in its application to a taxation year before the 1972 taxation year, an amount has been included in computing the taxpayer's income for that previous year,

in respect of the disposition of any property and that amount or a part thereof is not receivable until a day that is after the end of the current year, there may be deducted as a reserve in respect of that amount the lesser of

64. (1). New

*Subsection 64(1)*

(c) the part thereof that is not receivable until a day that is after the end of the current year, and

(d) any amount deducted under this subsection in respect of the disposition of the property in computing the taxpayer's income for the taxation year immediately preceding the current year,

and, for greater certainty, no deduction may be made in respect of that amount by virtue of paragraph 20(1)(n).

Applica-  
tion of  
ss. (1)

(2) Subsection (1) does not apply to allow a deduction in computing the income of a taxpayer for a taxation year if the taxpayer, at any time in the year or in the immediately following year,

(a) ceases to be a resident of Canada;

(b) becomes exempt from tax under any provision of this Part; or

(c) if a non-resident, ceases to carry on business in Canada.

(2). New

Allowance  
for oil or  
gas well,  
mine or  
timber  
limit

65. (1) There may be deducted in computing a taxpayer's income for a taxation year such amount as an allowance in respect of an oil or gas well, mineral resource or timber limit, if any, as is allowed to the taxpayer by regulation.

65. (1). Paragraph 11(1)(b)

Regula-  
tions

(2) For greater certainty it is hereby declared that, in the case of a regulation made under subsection (1) allowing to a taxpayer an amount in respect of an oil or gas well or a mineral resource,

(2). Subsection 11(2a)

(a) there may be allowed to the taxpayer by such regulation an amount in respect of any or all oil or gas wells or mineral resources in which the taxpayer has any interest, and

(b) notwithstanding any other provision contained in this Act, the Governor in Council may prescribe the formula by which the amount that may be allowed to the taxpayer by such regulation shall be determined.



## Section 65

Lessee's  
share of  
allowance

(3) Where a deduction is allowed under subsection (1) in respect of a coal mine operated by a lessee, the lessor and lessee may agree as to what portion of the allowance each may deduct and, in the event that they cannot agree, the Minister may fix the portions.

(3). Subsection 11(3)

Explora-  
tion and  
develop-  
ment ex-  
penses of  
principal-  
business  
corpora-  
tions

66. (1) A principal-business corporation may deduct, in computing its income for a taxation year, the lesser of

(a) the aggregate of such of its Canadian exploration and development expenses as were incurred by it before the end of the taxation year, to the extent that they were not deductible in computing income for a previous taxation year, and

(b) of that aggregate, an amount equal to its income for the taxation year if no deduction were allowed under this section or section 65, minus the deductions allowed for the year by subsections (2), (6) and (7) and by sections 112 and 113.

66. (1). Subsections 83A(3b) and (4a),  
modified

Expenses  
of special  
product  
corpora-  
tions

(2) A corporation (other than a principal-business corporation the principal business of which is described in subparagraph (15)(h)(i) or (ii)), whose principal business is production or marketing of sodium chloride or potash or whose business includes manufacturing products the manufacturing of which involves processing sodium chloride or potash, may deduct, in computing its income for a taxation year, the drilling and exploration expenses incurred by it in the year on or in respect of exploring or drilling for halite or sylvite.

(2). Subsection 83A(3a)

Expenses  
of other  
taxpayers

(3) A taxpayer who is an individual or who is a corporation other than a principal-business corporation may deduct, in computing his income for a taxation year, the lesser of

(a) the aggregate of such of his Canadian exploration and development expenses as were incurred by him before the end of the taxation year to the extent they were not deductible in computing his income for a previous taxation year, and

(3). Subsections 83A(4a), (4b) and (4c),  
modified

(b) of that aggregate, the amount, if any, by which the greater of

(i) such amount as the taxpayer may claim, not exceeding 20% of the aggregate determined under paragraph (a), and

(ii) the aggregate of

(A) his income for the taxation year from operating an oil or gas well in Canada or from operating a mine in Canada, if the taxpayer had an interest in the oil or gas well, or mine, as the case may be, at any time in the taxation year,

(B) his income for the taxation year from royalties in respect of an oil or gas well in Canada or a mine in Canada, and

(C) the aggregate of amounts each of which is an amount, in respect of a Canadian resource property or a property referred to in paragraph 59(1)(c) or 59(3)(a) that has been disposed of by him, equal to the amount, if any, by which

1. the amount included in computing his income for the year by virtue of section 59 in respect of the disposition of the property,

exceeds

2. the amount deductible under section 64 in respect of the property in computing his income for the year,

if no deductions were allowed under section 65,

exceeds

(iii) the amount of any deduction allowed by the *Income Tax Application Rules, 1971* in respect of this subparagraph in computing his income for the year.

(4) A taxpayer may deduct, in computing his income for a taxation year, the lesser of

(a) the aggregate of such of his foreign exploration and development expenses as were incurred by him before the end of the

(4). New

taxation year to the extent they were not deductible in computing his income for a previous taxation year, and

(b) of that aggregate, the greater of,

(i) such amount as the taxpayer may claim not exceeding 10% of the aggregate determined under paragraph (a), and

(ii) the aggregate of

(A) his income for the taxation year from operating an oil or gas well outside Canada or from operating a mine outside Canada, if the taxpayer had an interest in the oil or gas well, or mine, as the case may be, at any time in the taxation year,

(B) his income for the taxation year from royalties in respect of an oil or gas well outside Canada or a mine outside Canada, and

(C) the aggregate of amounts each of which is an amount, in respect of a foreign resource property or a property referred to in paragraph 59(3)(b) that has been disposed of by him, equal to the amount, if any, by which

1. the amount included in computing his income for the year by virtue of section 59 in respect of the disposition of the property,

exceeds

2. the amount deductible under section 64 in respect of the property in computing his income for the year,

minus the deductions allowed for the year by subsections (8) and (9) and subsection 87(7).

Dealers

(5) Sections 59 and 64 and subsections (3) and (4) do not apply in computing the income for a taxation year under this Part of a taxpayer (other than a principal-business corporation) whose business includes trading or dealing in rights, licences or privileges to explore for, drill for or take minerals, petroleum, natural gas or other related hydrocarbons.

(5). Subsection 83A(5f), modified

Successor  
corporations  
Canadian  
exploration  
and devel-  
opment  
expenses

(6) Where a principal-business corporation (in this subsection referred to as the "successor corporation") has, at any time after 1971, acquired from another principal-business corporation (in this subsection referred to as the "predecessor corporation") all or substantially all of the property of the predecessor corporation used by it in carrying on in Canada its principal business, there may be deducted by the successor corporation, in computing its income under this Part for a taxation year, the lesser of

(a) the aggregate of the Canadian exploration and development expenses incurred by the predecessor corporation to the extent that such expenses

(i) were not deductible by the successor corporation in computing its income for a previous taxation year, and were not deductible by the predecessor corporation in computing its income for the taxation year in which the property so acquired was acquired by the successor corporation or its income for a previous taxation year, and

(ii) would have been deductible by the predecessor corporation in computing its income for the taxation year in which the property so acquired was acquired by the successor corporation, if the predecessor corporation's income for that taxation year had been sufficient for the purpose; and

(b) of that aggregate, an amount equal to such part of its income for the year if no deduction were allowed under this section, section 65 or the *Income Tax Application Rules, 1971* in respect of this paragraph (minus any deductions allowed for the year by subsections (2) and (7), sections 112 and 113 and the provisions of the *Income Tax Application Rules, 1971* allowing a deduction for the purposes of this paragraph), as may reasonably be regarded as attributable to the production of petroleum or natural gas from wells, or the production of minerals from mines, situated on property in Canada from which the predecessor corporation had,

(6). Subsection 83A(8a), modified



immediately before the acquisition by the successor corporation of the property so acquired, a right to take or remove petroleum or natural gas or a right to take or remove minerals;

and, in respect of any such expenses included in the aggregate determined under paragraph (a), no deduction may be made under this section by the predecessor corporation in computing its income for a taxation year subsequent to its taxation year in which the property so acquired was acquired by the successor corporation.

Second  
successor  
corpora-  
tion's  
Canadian  
exploration  
and devel-  
opment  
expenses

(7) Where a principal-business corporation (in this subsection referred to as the "second successor corporation") has at any time after 1971 acquired from a corporation (in this subsection referred to as the "first successor corporation") that was a successor corporation within the meaning of subsection (6), all or substantially all of the property of the first successor corporation used by it in carrying on in Canada its principal business, there may be deducted by the second successor corporation, in computing its income under this Part for a taxation year, the lesser of

(a) the aggregate determined by adding the expenses referred to in paragraph (6)(a) for the purpose of determining the deduction allowable to the first successor corporation under subsection (6) in computing its income for a previous taxation year, to the extent that such expenses

(i) were not deductible by the second successor corporation or any other corporation in computing its income for a previous taxation year, and were not deductible by the first successor corporation in computing its income for the taxation year in which the property so acquired was acquired by the second successor corporation, and

(7). Subsection 83A(8d), modified

(ii) would, but for the provisions of paragraph (6)(b), have been deductible by the first successor corporation in computing its income for the taxation year in which the property so acquired was acquired by the second successor corporation, and

(b) of that aggregate, an amount equal to such part of its income for the year if no deduction were allowed under this section or section 65 or the *Income Tax Application Rules, 1971* in respect of this paragraph (minus any deductions allowed for the year by subsection (2), sections 112 and 113 and the provisions of the *Income Tax Application Rules, 1971* allowing a deduction for the purposes of this paragraph) as may reasonably be regarded as attributable to the production of petroleum or natural gas from wells, or the production of minerals from mines, situated on property in Canada from which the predecessor of the first successor corporation within the meaning of subsection (6) had, immediately before the acquisition by the first successor corporation of the property so acquired by the second successor corporation, a right to take or remove petroleum or natural gas or a right to take or remove minerals;

and, in respect of any such expenses included in the aggregate determined under paragraph (a), no deduction may be made under this section by the first successor corporation in computing its income for a taxation year subsequent to its taxation year in which the property so acquired was acquired by the second successor corporation.

(8) In computing the income of a principal-business corporation for a taxation year, there may be deducted the amount that would be deductible under subsection (6) in computing its income for the year if

(8). New

(a) the references therein to “in Canada” were read as references to “outside Canada”,

(b) the reference in paragraph (a) thereof to “Canadian exploration and development expenses” were read as a reference to “foreign exploration and development expenses”,

(c) the reference in paragraph (b) thereof to “subsection (7)” were read as a reference to “subsection (9)”, and

(d) paragraph (b) thereof were read without reference to the expression “or the *Income Tax Application Rules, 1971* in respect of this paragraph” or the expression “and the provisions of the *Income Tax Application Rules, 1971* allowing a deduction for the purposes of this paragraph”.

## Second successor corporation's foreign exploration and development expenses

(9) In computing the income of a principal-business corporation for a taxation year, there may be deducted the amount that would be determined under subsection (7) in computing its income for the year if

(a) the references therein to “subsection (6)”, “paragraph (6)(a)” and “paragraph (6)(b)” were read as references to those provisions as they are required to be read for the purposes of subsection (8),

(b) the references therein to “in Canada” were read as references to “outside Canada”, and

(c) paragraph (b) thereof were read without reference to the expression "or the *Income Tax Application Rules, 1971* in respect of this paragraph" or the expression "and the provisions of the *Income Tax Application Rules, 1971* allowing a deduction for the purposes of this paragraph".

(9). New

**Joint  
explora-  
tion cor-  
poration**

(10) A joint exploration corporation may in a taxation year elect in prescribed form to renounce in favour of another corporation that is a principal-business corporation an agreed portion of the aggregate of such of the joint exploration corporation's Canadian exploration and development expenses as were incurred by

(10). Subsection 83A(3d), modified

## Subsection 66(10)

it during a period, after 1971 and before the end of the taxation year, throughout which the other corporation was a shareholder corporation, to the extent that the aggregate of such expenses exceeds any amount deductible under subsection (1) in respect thereof by the joint exploration corporation in computing its income for any taxation year previous to the year in which the election was made, and upon the election the said agreed portion

(a) shall be deemed, for the purpose of subsection (1), to be Canadian exploration and development expenses incurred by the other corporation in the taxation year of the corporation in which the election was made, and

(b) shall be subtracted from the aggregate described in paragraph (1)(a) in determining the amount deductible by the joint exploration corporation under subsection (1) in computing its income.

Control  
change

(11) Where control of a corporation has, between a time when the corporation ceased to carry on active business and a time when it commenced to carry on active business again, been acquired by

(a) a person, or

(b) a person and other persons with whom that person does not deal at arm's length,

who did not control the corporation at the time when it so ceased to carry on active business, all of the Canadian exploration and development expenses and foreign exploration and development expenses incurred by the corporation before the time when it commenced to carry on active business again shall be deemed to have been deductible in computing its incomes for taxation years ending before the time when such control was so acquired.

(11). New

Computa-  
tion of  
explora-  
tion and  
develop-  
ment  
expenses

(12) In computing a taxpayer's Canadian exploration and development expenses,

(a) there shall be deducted any amount paid to him

(i) after 1971 under the *Northern Mineral Exploration Assistance Regulations* made under an *Appropriation Act* that provides

(12). Subsection 83A (8ca), modified



## Subsection 66(12)

for payments in respect of the Northern Mineral Grants Program, or

(ii) pursuant to any agreement entered into between the taxpayer and Her Majesty in right of Canada under the Northern Mineral Grants Program or the Development Program of the Department of Indian Affairs and Northern Development, to the extent that the amount has been expended by the taxpayer as or on account of Canadian exploration and development expenses incurred by him; and

(b) there shall be included any amount, except an amount in respect of interest, paid by him after 1971 under the Regulations referred to in subparagraph (a)(i) to Her Majesty in right of Canada.

## Limitation

(13) Where a taxpayer has incurred expenses the deduction of which from income is authorized under more than one provision of this section, he is not entitled to make the deduction under more than one provision but is entitled to select the provision under which to make the deduction.

(13). Subsection 83A(9)

## Amounts deemed deductible under this subdivision

(14) For the purposes of section 3, any amount deductible under the *Income Tax Application Rules, 1971* in respect of this subsection shall be deemed to be deductible under this subdivision.

(14). New

## Definitions

(15) In this section,

(15).

## "Agreed portion"

(a) "agreed portion" in respect of a corporation that was a shareholder corporation of a joint exploration corporation means such amount as may be agreed upon between the joint exploration corporation and the shareholder corporation not exceeding

(a). Paragraph 83A(3e)(c), modified

(i) the payments referred to in subparagraph (i)(iii) made by the shareholder corporation to the joint exploration corporation during the period it was a shareholder corporation of the joint corporation,

minus

(ii) the aggregate of the amounts, if any, previously renounced by the joint explo-

ration corporation under subsection (8)  
in favour of the shareholder corporation;

"Canadian  
exploration  
and develop-  
ment expenses"

(b) "Canadian exploration and development  
expenses" incurred by a taxpayer means

(b). New

(i) any drilling or exploration expense,  
including any general geological or  
geophysical expense, incurred by him  
after 1971 on or in respect of exploring  
or drilling for petroleum or natural gas in  
Canada,

(ii) any prospecting, exploration or  
development expense incurred by him  
after 1971 in searching for minerals in  
Canada,

(iii) the cost to him of any Canadian  
resource property acquired by him,

(iv) his share of the Canadian exploration  
and development expenses incurred after  
1971 by any association, partnership or  
syndicate in a fiscal period thereof, if at  
the end of that fiscal period he was a  
member or partner thereof, and

(v) where the taxpayer is a principal-  
business corporation, the consideration  
paid by it for any share or any interest  
therein or right thereto, to the extent  
that the consideration was a legal obliga-  
tion pursuant to an agreement under  
which it undertook to incur, after 1971,  
the cost of

(A) drilling or exploration services,  
including any general geological or  
geophysical services, on or in respect  
of exploring or drilling for petroleum  
or natural gas in Canada,

(B) prospecting, exploration or de-  
velopment services in searching for  
minerals in Canada, or

(C) acquiring a Canadian resource  
property,

but, for greater certainty, does not include

(vi) any consideration given by the tax-  
payer for any share or any interest  
therein or right thereto, except as provi-  
ded by subparagraph (v), or

(vii) any cost described in subparagraph (v), if the obligation of any other taxpayer to incur those costs was, by virtue of subparagraph (v), a Canadian exploration and development expense of that other taxpayer;

(c) "Canadian resource property" of a taxpayer means any property acquired by him after 1971 that is,

(i) any right, licence or privilege to explore for, drill for, or take petroleum, natural gas or other related hydrocarbons in Canada,

(ii) any right, licence or privilege to prospect, explore, drill, or mine for, minerals in a mineral resource in Canada,

(iii) any oil or gas well situated in Canada,

(iv) any rental or royalty computed by reference to the amount or value of production from an oil or gas well, or a mineral resource, situated in Canada,

(v) any real property situated in Canada the principal value of which depends upon its mineral resource content (but not including any depreciable property situated on the surface of the property or used or to be used in connection with the extraction or removal of minerals therefrom), or

(vi) any right to or interest in any property described in any of subparagraphs (i) to (v);

(d) "drilling or exploration expense" incurred on or in respect of exploring or drilling for petroleum or natural gas includes

(i) any annual payment made for the preservation of a Canadian resource property, a foreign resource property or any property referred to in paragraph 59(1)(c), and

(ii) any expense incurred on or in respect of

(A) drilling or converting a well for the disposal of waste liquids from a petroleum or natural gas well,

(c). New

(d). Subsection 83A(8c) and (8e), modified

"Canadian resource property"

"Drilling or exploration expense"

(B) drilling for water or gas for injection into a petroleum or natural gas formation, or

(C) drilling or converting a well for the injection of water or gas to assist in the recovery of petroleum or natural gas from another well;

“Foreign exploration and development expenses”

(e) “foreign exploration and development expenses” incurred by a taxpayer means

(i) any drilling or exploration expense, including any general geological or geophysical expense, incurred by him after 1971 on or in respect of exploring or drilling for petroleum or natural gas outside Canada,

(ii) any prospecting, exploration or development expense incurred by him after 1971 in searching for minerals outside Canada,

(iii) the cost to him of any foreign resource property acquired by him, and

(iv) his share of the foreign exploration and development expenses incurred after 1971 by any association, partnership or syndicate in a fiscal period thereof, if at the end of that fiscal period he was a member or partner thereof;

(e). New

“Foreign resource property”

(f) “foreign resource property” of a taxpayer means any property that would be a Canadian resource property of the taxpayer if paragraph (c) were read as if the references therein to “in Canada” were read as references to “outside Canada”;

(f). New

“Joint exploration corporation”

(g) “joint exploration corporation” means a principal-business corporation that has not at any time since its incorporation had more than 10 shareholders (not including any individual holding a share for the sole purpose of qualifying as a director);

(g). Paragraph 83A(3e)(a), modified

“Principal-business corporation”

(h) “principal-business corporation” means a corporation whose principal business is,

(h). New

(i) production, refining or marketing of petroleum, petroleum products or natural gas, or exploring or drilling for petroleum or natural gas,



*Subsection 66(15)*

- (ii) mining or exploring for minerals,
- (iii) processing mineral ores for the purpose of recovering metals therefrom,
- (iv) a combination of

- (A) processing mineral ores for the purpose of recovering metals therefrom, and

- (B) processing metals recovered from the ores so processed,

- (v) fabricating metals, or

- (vi) operating a pipeline for the transmission of oil or natural gas; and

(i) "shareholder corporation" of a joint exploration corporation means a corporation that for the period in respect of which the expression is being applied

- (i) was a shareholder of the joint exploration corporation,

- (ii) was a principal-business corporation, and

- (iii) made payments to the joint exploration corporation in respect of Canadian exploration and development expenses incurred by the joint exploration corporation.

(i). Paragraph 83A(3e)(b), modified

Subdivision f — Rules Relating  
to Computation of Income

67. In computing income, no deduction shall be made in respect of an outlay or expense in respect of which any amount is otherwise deductible under this Act, except to the extent that the outlay or expense was reasonable in the circumstances.

67. Subsection 12(2), modified

68. Where an amount can reasonably be regarded as being in part the consideration for the disposition of any property of a taxpayer and as being in part consideration for something else, the part of the amount that can reasonably be regarded as being the consideration for such disposition shall be deemed to be proceeds of disposition of that property irrespective of the form or legal effect of the contract or agreement; and the person to whom the property was disposed of shall be deemed to have acquired the property at the same part of that amount.

68. New

"Shareholder corporation"

General limitation re expenses

Amounts in part consideration for disposition of property

Inadequate  
considera-  
tions

69. (1) Except as expressly otherwise provided in this Act,

(a) where a taxpayer has acquired anything from a person with whom he was not dealing at arm's length at an amount in excess of the fair market value thereof at the time he so acquired it, he shall be deemed to have acquired it at that fair market value;

(b) where a taxpayer has disposed of anything

(i) to a person with whom he was not dealing at arm's length for no proceeds or for proceeds less than the fair market value thereof at the time he so disposed of it, or

(ii) to any person by way of gift *inter vivos*,

he shall be deemed to have received proceeds of disposition therefor equal to that fair market value; and

(c) where a taxpayer has acquired property by way of gift, bequest or inheritance, he shall be deemed to have acquired the property at its fair market value at the time he so acquired it.

Idem

(2) Where a taxpayer carrying on business in Canada has paid or agreed to pay, to a non-resident person with whom he was not dealing at arm's length as price, rental, royalty or other payment for or for the use or reproduction of any property, or as consideration for the carriage of goods or passengers or for other services, an amount greater than the amount (in this subsection referred to as "the reasonable amount") that would have been reasonable in the circumstances if the non-resident person and the taxpayer had been dealing at arm's length, the reasonable amount shall, for the purpose of computing the taxpayer's income from the business, be deemed to have been the amount that was paid or is payable therefor.

Idem

(3) Where a non-resident person has paid, or agreed to pay, to a taxpayer carrying on business in Canada with whom he was not dealing at arm's length as price, rental, royalty or other payment for or for the use or reproduction of

69. (1)

(a). Subsection 17(1), modified

(b). Subsection 17(2), modified

(c). New

(2). Subsection 17(3), modified

(3). Subsection 17(4), modified

*Subsection 69(3)*

any property, or as consideration for the carriage of goods or passengers or for other services, an amount less than the amount (in this subsection referred to as "the reasonable amount") that would have been reasonable in the circumstances if the non-resident person and the taxpayer had been dealing at arm's length, the reasonable amount shall, for the purpose of computing the taxpayer's income from the business, be deemed to have been the amount that was paid or is payable therefor.

Idem

(4) Where property of a corporation has been appropriated in any manner whatever to, or for the benefit of, a shareholder, for no consideration or for a consideration below the fair market value, if the sale thereof at the fair market value would have increased the corporation's income for a taxation year, for the purpose of determining the corporation's income for the year, it shall be deemed to have sold the property during the year and to have received therefor the fair market value thereof.

(4). Subsection 17(5)

Idem

(5) Where property of a corporation has been appropriated in any manner whatever to, or for the benefit of, a shareholder, on the winding-up of the corporation, if the sale thereof at the fair market value immediately prior to the winding-up would have increased the corporation's income for a taxation year, for the purpose of determining the corporation's income for the year, it shall be deemed to have sold the property during the year and to have received therefor the fair market value thereof.

(5). Subsection 17(6)

Death  
of a  
taxpayer

70. (1) In computing the income of a taxpayer for the taxation year in which he died, an amount of interest, rent, royalty, annuity, remuneration from an office or employment, or other amount payable periodically, that was not paid before his death, shall be deemed to have accrued in equal daily amounts in the period for or in respect of which the amount was payable, and the value of the portion thereof so deemed to have accrued to the day of death shall be included in computing the taxpayer's income for the year in which he died.

70. (1). Subsection 64(1)

*Section 70*

Amounts  
receivable

(2) Where a taxpayer who has died had at the time of his death rights or things (other than any capital property or any amount included in computing his income by virtue of subsection (1)), the amount whereof when realized or disposed of would have been included in computing his income, the value thereof at the time of death shall be included in computing the taxpayer's income for the taxation year in which he died, except that where his legal representative has, within one year from the date of death of the taxpayer or within 90 days after the mailing of any notice of assessment in respect of the tax of the taxpayer for the year of death, whichever is the later day, so elected, a separate return of the value shall be filed and tax thereon shall be paid under this Part for the taxation year in which the taxpayer died as if he had been another person entitled to the deductions to which he was entitled under section 109 for that year.

(2). Subsection 64(2), modified

Rights or  
things  
transferred  
to bene-  
ficiaries

(3) Where before the time for making an election under subsection (2) has expired, a right or thing to which that subsection would otherwise apply has been transferred or distributed to beneficiaries or other persons beneficially interested in the estate or trust,

(3). Subsection 64(3)

(a) subsection (2) is not applicable to that right or thing, and

(b) an amount received by one of the beneficiaries or other such persons upon the realization or disposition of the right or thing shall be included in computing his income for the taxation year in which he received it.

Revocation  
of election

(4) An election made under subsection (2) may be revoked by a notice of revocation

(4). Subsection 64(5)



signed by the legal representative of the taxpayer and filed with the Minister within the time that an election under that subsection may be made.

Depreciable  
and other  
capital  
property of  
deceased  
taxpayer

(5) Where in a taxation year a taxpayer has died, the following rules apply:

(5). New

(a) the taxpayer shall be deemed to have disposed of each property owned by him immediately before his death that was a capital property of the taxpayer (other than depreciable property) and to have received proceeds of disposition therefor equal to the fair market value of the property at that time;

(b) the taxpayer shall be deemed to have disposed of all depreciable property of a prescribed class owned by him immediately before his death and to have received proceeds of disposition therefor equal to,

(i) where the fair market value of that property at that time exceeds the undepreciated capital cost thereof to the taxpayer at that time, the amount of that undepreciated capital cost plus  $\frac{1}{2}$  of the amount of the excess, and

(ii) in any other case, the fair market value of that property at that time plus  $\frac{1}{2}$  of the amount, if any, by which the undepreciated capital cost thereof to the taxpayer at that time exceeds that fair market value;

(c) any person who, by virtue of the death of the taxpayer, has acquired any particular capital property of the taxpayer (other than depreciable property) that is deemed by paragraph (a) to have been disposed of by him shall be deemed to have acquired it at a cost equal to its fair market value immediately before the death of the taxpayer;

(d) any person who, by virtue of the death of the taxpayer, has acquired any particular depreciable property of the taxpayer of a prescribed class that is deemed by paragraph (b) to have been disposed of by him shall be deemed to have acquired it at a cost equal to that proportion of the proceeds of disposition of all depreciable property of that class deemed by paragraph (b) to have been received by the taxpayer that the fair market

value at that time of the particular property is of the fair market value at that time of all of that property of that class; and

(e) where any depreciable property of the taxpayer of a prescribed class that is deemed by paragraph (b) to have been disposed of by the taxpayer has been acquired by any person by virtue of the death of the taxpayer and the amount that was the capital cost to the taxpayer of that property exceeds the amount determined under paragraph (d) to be the cost to that person thereof, for the purposes of sections 13 and 20 and any regulations made under paragraph 20(1)(a)

(i) the capital cost to that person of the property shall be deemed to be the amount that was the capital cost to the taxpayer of the property, and

(ii) the excess shall be deemed to have been allowed to that person in respect of the property under regulations made under paragraph 20(1)(a) in computing income for taxation years before the acquisition by him of the property.

Where  
transfer  
or distri-  
bution to  
spouse  
or trust

(6) Where any property of a taxpayer to which paragraphs (5)(a) and (c) or paragraphs (5)(b) and (d), as the case may be, would otherwise apply has, on or after the death of the taxpayer and as a consequence thereof, been transferred or distributed to

(a) his spouse, or

(b) a trust created by the taxpayer's will under which

(i) his spouse is entitled to receive all of the income of the trust (other than taxable capital gains) that arises before the spouse's death, and

(ii) no person except the spouse may, before the spouse's death, receive or otherwise obtain the use of any of the income or capital of the trust,

(6). New

the following rules apply:

(c) paragraphs (5)(a) to (d) are not applicable to the property; and

(d) the taxpayer shall be deemed to have disposed of the property immediately before his death and to have received proceeds of disposition therefor equal to,

(i) where the property was depreciable property of the taxpayer of a prescribed class, that proportion of the undepreciated capital cost to him of the property immediately before his death that the fair market value at that time of the property is of the fair market value at that time of all of the depreciable property of the taxpayer of that class, and

(ii) in any other case, the adjusted cost base to the taxpayer of the property immediately before his death,

and the spouse or trust, as the case may be, shall be deemed to have acquired the property at the same amount.

Application  
of para. 3(e)  
to year in  
which tax-  
payer died

71. In computing the income of a taxpayer for the taxation year in which he died, paragraph 3(e) shall be read

(a) without reference to the words "the lesser of", and

(b) without reference to subparagraph (ii) thereof.

Reserves,  
etc. for  
year of  
death

72. (1) Where in a taxation year a taxpayer has died,

(a) paragraph 20(1)(n) does not apply to allow, in computing the income of the taxpayer for the year from a business, the deduction of any amount as a reserve in respect of property sold in the course of the business;

(b) no amount is deductible under subsection 32(1) as a reserve in respect of unearned commissions in computing his income for the year; and

(c) subparagraph 40(1)(a)(iii) does not apply to permit the claiming of any amount thereunder in computing any gain of the taxpayer for the year; and

71. New

72. (1). New

(d) subsection 64(1) does not apply to allow, in computing the income of the taxpayer for the year, the deduction of any amount as a reserve in respect of the disposition of any property.

Election  
by legal  
representative and  
transferee  
re  
reserves

(2) Where property of a taxpayer that is a right to receive any amount has, on or after the death of the taxpayer and as a consequence thereof, been transferred or distributed to his spouse, or to a trust described in paragraph 70(6)(b) (in this subsection referred to as the "transferee"), and the taxpayer's legal representative and the transferee have executed jointly an election in respect of the property in prescribed form,

(2). New

(a) any amount in respect of the property that would, but for paragraph (1)(a), (b) or (d), as the case may be, have been deductible as a reserve in computing the taxpayer's income for the taxation year in which he died shall,

(i) notwithstanding subsection (1), be deducted in computing the taxpayer's income for the taxation year in which he died,

(ii) be included in computing the transferee's income for his first taxation year ending after the death of the taxpayer, and

(iii) be deemed to be

(A) an amount that has been included in computing the transferee's income from a business for a previous year in respect of property sold in the course of the business,

(B) an amount that has been included in computing the transferee's income for a previous year as a commission in respect of an insurance contract, other than a life insurance contract, or

(C) an amount that, by virtue of subsection 59(1) or (3), has been included in computing the taxpayer's income for a previous year,

as the case may be; and



## Subsection 72(2)

(b) any amount in respect of the property that could, but for paragraph (1)(c), have been claimed under subparagraph 40(1)(a)(iii) in computing the amount of any gain of the taxpayer for the year shall,

(i) notwithstanding paragraph (1)(c), be deemed to have been so claimed, and

(ii) for the purposes of computing the transferee's income for his first taxation year ending after the death of the taxpayer and any subsequent taxation year, be deemed to have been

(A) proceeds of the disposition of capital property disposed of by him in that first taxation year, and

(B) the amount determined under subparagraph 40(1)(a)(i) in respect of the capital property referred to in clause (A).

*Inter vivos*  
transfer of  
property  
to spouse  
or trust

73. (1) For the purposes of this Part, where at any time after 1971 any particular capital property has been transferred by a taxpayer to his spouse, or to a trust created by him under which

(a) his spouse is entitled to receive all of the income of the trust (other than taxable capital gains) that arises before the spouse's death, and

(b) no person except the spouse may, before the spouse's death, receive or otherwise obtain the use of any of the income or capital of the trust,

and both the taxpayer and his spouse were resident in Canada at that time, the particular property shall be deemed to have been disposed of at that time by the taxpayer for proceeds equal to,

(c) where the particular property is depreciable property of a prescribed class, that proportion of the undepreciated capital cost to the taxpayer immediately before that time of all property of that class that the fair market value immediately before that time of the particular property is of the fair

73. (1). New

*Subsection 73(1)*

market value immediately before that time of all of that property of that class, and

(d) in any other case, the adjusted cost base to the taxpayer of the particular property immediately before that time,

and to have been acquired at that time by the spouse or trust, as the case may be, for an amount equal to those proceeds.

Capital  
cost allow-  
ance  
deemed  
allowed to  
spouse or  
trust

(2) Where a spouse or trust, as the case may be, is deemed by subsection (1) to have acquired any particular depreciable property of a prescribed class of a taxpayer for an amount determined under paragraph (1)(c), the amount, if any, by which

(a) the capital cost to the taxpayer of the particular property exceeds

(b) the amount determined under paragraph (1)(c) in respect of the particular property, shall be deemed to have been allowed to the spouse or trust, as the case may be, in respect of the particular property under regulations made under paragraph 20(1)(a) in computing income for taxation years before the acquisition thereof.

(2). New

Transfers  
to spouse

74. (1) Where a person has, on or after August 1, 1917, transferred property either directly or indirectly, by means of a trust or by any other means whatever to his spouse, or to a person who has since become his spouse, the income for a taxation year from the property or from property substituted therefor shall, during the lifetime of the transferor while he is resident in Canada and the transferee is his spouse, be deemed to be income of the transferor and not of the transferee.

74. (1). Subsection 21(1)

Gain or  
loss  
deemed  
that of  
transferor

(2) Where a person has, after 1971, transferred property either directly or indirectly, by means of a trust or by any other means whatever to his spouse, or to a person who has

(2). New

*Subsection 74(2)*

since become his spouse, a capital gain from the disposition of the property or from property substituted therefor shall, during the lifetime of the transferor while the transferor is resident in Canada and the transferee is his spouse, be deemed to be a capital gain of the transferor and not of the transferee.

Remuneration received as employee of spouse

(3) Where a person has received remuneration as an employee of his spouse, the amount thereof shall not be deducted in computing the spouse's income and shall not be included in computing the employee's income.

(3). Subsection 21(2)

Remuneration received as employee of spouse's partnership

(4) Where, in a taxation year, a person has received remuneration as the employee of a partnership in which his spouse was a partner, the proportion of the remuneration that the spouse's interest in the partnership business was of the interest of all the partners shall be deemed to have been received by the spouse as part of the income from the business for the year and not to have been received by the employee.

(4). Subsection 21(3)

Where husband and wife partners in business

(5) Where a husband and wife were partners in a business, the income of one spouse from the business for a taxation year may, in the discretion of the Minister, be deemed to belong to the other spouse.

(5). Subsection 21(4)

Transfers to minors

75. (1) Where a taxpayer has, since 1930, transferred property to a person who was under 19 years of age, either directly or indirectly, by means of a trust or by any other means whatever, the income for a taxation year from the property or from property substituted therefor shall, during the lifetime of the transferor while he is resident in Canada, be deemed to be income of the transferor and not of the transferee, unless the transferee has, before the end of the year, attained the age of 19 years.

75. (1). Subsection 22(1)

Trusts

(2) Where, by a trust created in any manner whatever since 1934, property is held on condition

(2). Subsection 22(2), modified

(a) that it or property substituted therefor may

*Subsection 75(2)*

(i) revert to the person from whom the property or property for which it was substituted was directly or indirectly received, or

(ii) pass to persons to be determined by him at a time subsequent to the creation of the trust, or

(b) that, during the lifetime of the person from whom the property or property for which it was substituted was directly or indirectly received, the property shall not be disposed of except with his consent or in accordance with his direction,

any income or loss from the property or from property substituted therefor, or any taxable capital gain or allowable capital loss from the disposition of the property or of property substituted therefor, shall, during the lifetime of such person while he is resident in Canada, be deemed to be income or a loss, as the case may be, or a taxable capital gain or allowable capital loss, as the case may be, of such person.

(3) For the purpose of this section and section 74, where a person who did own or hold property has disposed of it and acquired other property in substitution therefor and subsequently, by one or more further transactions, has effected one or more further substitutions, the property acquired by any such transaction shall be deemed to have been substituted for the property originally owned or held.

(3). Subsection 22(3)

76. (1) Where a person has received a security or other right or a certificate of indebtedness or other evidence of indebtedness wholly or partially as, in lieu of payment of, or in satisfaction of, a debt that was then payable, the amount of which debt would be included in computing his income if it had been paid, the value of the security, right or indebtedness or the applicable portion thereof shall, notwithstanding the form or legal effect of the transaction, be included in computing his income for the taxation year in which it was received.

76. (1). Subsection 24(1), modified

New property deemed substituted

Security in satisfaction of income debt



## Section 76

## (2). Subsection 24(2)

Idem (2) Where a security or other right or a certificate of indebtedness or other evidence of indebtedness has been received by a person wholly or partially as, in lieu of payment of, or in satisfaction of, a debt before the debt was payable, but was not itself payable or redeemable before the day on which the debt was payable, it shall, for the purpose of subsection (1), be deemed to have been received when the debt became payable by the person holding it at that time.

Idem (3) This section is enacted for greater certainty and shall not be construed as limiting the generality of the other provisions of this Part by which amounts are required to be included in computing income.

## (3). Subsection 24(3)

Bond conversion 77. Where a bond of a debtor is acquired by a taxpayer in exchange for another bond of the same debtor and

(a) the terms on which the bond for which it was exchanged was issued conferred upon the holder thereof the right to make the exchange, and

(b) the amount payable to the holder of the bond on its maturity is the same as the amount that would have been payable to the holder of the bond for which it was exchanged on the maturity of that bond,

the cost of the bond so acquired and the sale price of the bond for which it was exchanged shall be deemed to be,

(c) in the event that the bond that was exchanged was property described in an inventory of a business carried on by the taxpayer, the amount at which it had been valued at the end of the last complete fiscal period of the business preceding the exchange, or

(d) in any other event, the adjusted cost base to the taxpayer of the bond that was exchanged, immediately before the exchange.

## 77. Section 24A, modified

Unpaid amounts 78. (1) Where an amount in respect of a deductible outlay or expense that was owing by a taxpayer to a person with whom the taxpayer was not dealing at arm's length at the time the outlay or expense was incurred and at the end

## 78. (1). Subsection 18(1)

of the second taxation year following the taxation year in which the outlay or expense was incurred, is unpaid at the end of that second taxation year, either

(a) the amount so unpaid shall be included in computing the taxpayer's income for the third taxation year following the taxation year in which the outlay or expense was incurred, or

(b) where the taxpayer and that person have filed an agreement in prescribed form on or before the day on or before which the taxpayer is required by section 150 to file his return of income for the third succeeding taxation year, for the purposes of this Act the following rules apply:

(i) the amount so unpaid shall be deemed to have been paid by the taxpayer and received by that person on the first day of the said third taxation year, and section 153, except subsection (3) thereof, is applicable to the extent that it would apply if that amount were being paid to that person by the taxpayer; and

(ii) that person shall be deemed to have made a loan to the taxpayer on the first day of the said third taxation year in an amount equal to the amount so unpaid minus the amount, if any, deducted or withheld therefrom by the taxpayer on account of that person's tax for the said third taxation year.

*Idem*

(2) Where an amount in respect of a deductible outlay or expense that was owing by a taxpayer that is a corporation to a person with whom the taxpayer was not dealing at arm's length is unpaid at the time when the taxpayer is wound up, and the taxpayer is wound up before the end of the second taxation year following the taxation year in which the outlay or expense was incurred, the amount so unpaid shall be included in computing the taxpayer's income for the taxation year in which it is wound up.

(2). Subsection 18(2)

## Section 78

Unpaid  
remunera-  
tion

(3) Where an amount in respect of a deductible outlay or expense that was owing by a taxpayer to a person as salary, wages or other remuneration in respect of an office or employment is unpaid at the end of the first taxation year following the taxation year in which the outlay or expense was incurred, either

(a) the amount so unpaid shall be included in computing the taxpayer's income for the second taxation year following the taxation year in which the outlay or expense was incurred, or

(b) where the taxpayer and that person have filed an agreement in prescribed form on or before the day on or before which the taxpayer is required by section 150 to file his return of income for the first taxation year following the taxation year in which the outlay or expense was incurred, for the purposes of this Act the following rules apply:

(i) the amount so unpaid shall be deemed to have been paid by the taxpayer and received by that person on the first day of the said second taxation year, and section 153, except subsection (3) thereof, is applicable to the extent that it would apply if that amount were being paid to that person by the taxpayer; and

(ii) that person shall be deemed to have made a loan to the taxpayer on the first day of the said second taxation year in an amount equal to the amount so unpaid minus the amount, if any, deducted or withheld therefrom by the taxpayer on account of that person's tax for the said second taxation year.

(3). Subsection 18(3)

Where unpaid  
at time  
corporation  
wound up

(4) Where an amount in respect of a deductible outlay or expense described in subsection (3) that was owing by a taxpayer that is a corporation is unpaid at the time when the taxpayer is wound up, and the taxpayer is wound up before the end of the first taxation year following the taxation year in which the

(4). Subsection 18(4)

*Subsection 78(4)*

outlay or expense was incurred, the amount so unpaid shall be included in computing the taxpayer's income for the taxation year in which it is wound up.

**Application** (5) Subsection (1) does not apply in any case where subsection (3) applies and subsection (2) does not apply in any case where subsection (4) applies. (5). Subsection 18(5)

**Late filing** (6) Where, in respect of an amount described in subsection (1) or (3) that was owing by a taxpayer to a person, an agreement in a form prescribed for the purposes of this section is filed after the day on or before which the agreement is required to be filed for the purposes of paragraph (1)(b) or paragraph (3)(b), as the case may be, both paragraphs (1)(a) and (1)(b) or paragraphs (3)(a) and (3)(b), as the case may be, apply in respect of the said amount, except that paragraph (1)(a) or paragraph (3)(a), as the case may be, shall be read and construed as requiring 25% only of the said amount to be included in computing the taxpayer's income. (6). Subsection 18(6)

**Mortgage foreclosures and conditional sales repossessions** 79. Where, at any time in a taxation year, a taxpayer who 79. New

(a) was a mortgagee or other creditor of another person who had previously acquired property, or

(b) had previously sold property to another person under a conditional sales agreement, has acquired or reacquired the beneficial ownership of the property in consequence of the other person's failure to pay all or any part of an amount (in this section referred to as the "taxpayer's claim") owing by him to the taxpayer, the following rules apply:

(c) there shall be included, in computing the other person's proceeds of disposition of the property, the principal amount of the taxpayer's claim plus all amounts each of which is the principal amount of any debt that had been owing by the other person, to the extent that it has been extinguished by



virtue of the acquisition or reacquisition, as the case may be;

(d) any amount paid by the other person after the acquisition or reacquisition, as the case may be, as, on account of or in satisfaction of the taxpayer's claim shall be deemed to be a loss of that person, for his taxation year in which payment of that amount was made, from the disposition of the property;

(e) in computing the income of the taxpayer for the year,

(i) the amount, if any, claimed by him under subparagraph 40(1)(a)(iii) in computing his gain for the immediately preceding taxation year from the disposition of the property, and

(ii) the amount, if any, deducted under paragraph 20(1)(n) in computing the income of the taxpayer for the immediately preceding year in respect of the property,

shall be deemed to be nil;

(f) the taxpayer shall be deemed to have acquired or reacquired, as the case may be, the property at the amount, if any, by which the principal amount of the taxpayer's claim exceeds the amount described in subparagraph (e)(i) or (ii), as the case may be, in respect of the property;

(g) the adjusted cost base to the taxpayer of the taxpayer's claim shall be deemed to be nil; and

(h) in computing the taxpayer's income for the year or a subsequent year, no amount is deductible in respect of the taxpayer's claim by virtue of paragraph 20(1)(l) or (p).

Debtor's  
gain on  
settlement  
of debts

80. Where at any time in a taxation year a debt or other obligation of a taxpayer to pay an amount is settled or extinguished after 1971 without any payment by him or by the payment of an amount less than the principal amount of the debt or obligation, as the case may be, the amount by which the principal amount thereof exceeds the amount so paid, if any, shall be applied

80. New

## Section 80

(a) to reduce, in the following order, the taxpayer's

- (i) non-capital losses,
- (ii) net capital losses, and
- (iii) restricted farm losses,

for preceding taxation years, to the extent of the amount of those losses that would otherwise be deductible in computing the taxpayer's taxable income for the year or a subsequent year, and

(b) to the extent that the excess exceeds the portion thereof required to be applied as provided in paragraph (a), to reduce in prescribed manner the capital cost to the taxpayer of any depreciable property and the adjusted cost base to him of any capital property,

unless

(c) the taxpayer is, at that time, a bankrupt within the meaning of section 128,

(d) the debt or obligation was such that, if interest had been paid by the taxpayer in respect of it, no deduction would have been permitted by this Part in respect of that interest in computing the taxpayer's income,

(e) section 79 is applicable in respect of the debt or obligation, or

(f) the excess is otherwise required to be included in computing his income for the year.

Subdivision g —  
Amounts Not Included  
In Computing Income

|                                |   |                                     |
|--------------------------------|---|-------------------------------------|
| Amounts not included in income | 81. (1) There shall not be included in computing the income of a taxpayer for a taxation year,  | 81. (1). Subsection 10(1), modified |
| Statutory exemptions           | (a) an amount that is declared to be exempt from income tax by any other enactment of the Parliament of Canada;   | (a). Paragraph 10(1)(a)             |
| War Savings Certificate        | (b) an amount received under a War Savings Certificate issued by His Majesty in right of Canada or under a similar savings certificate issued by His Majesty in right of Newfoundland before April 1, 1949; | (b). Paragraph 10(1)(b)             |

## Subsection 81(1)

- |   |   |                                   |
|---|---|-----------------------------------|
| Ship or aircraft of non-residents           | (c) the income for the year of a non-resident person earned in Canada from the operation by him of a ship or aircraft in international traffic, if the country where that person resided grants substantially similar relief for the year to a person resident in Canada;   | (c). Paragraph 10(1)(c)           |
| Service pension or allowance                | (d) a pension payment or allowance that is received under or is subject to the <i>Pension Act</i> , the <i>Civilian War Pensions and Allowances Act</i> or the <i>War Veterans Allowance Act</i> , or compensation received under regulations made under section 7 of the <i>Aeronautics Act</i> ;                              | (d). Paragraph 10(1)(d)           |
| Service pension from another country        | (e) a pension payment received on account of disability or death arising out of war service from a country that was an ally of His Majesty at the time of the war service, if that country grants substantially similar relief for the year to a person receiving a pension referred to in paragraph (d);                       | (e). Paragraph 10(1)(e)           |
| Halifax disaster pensions                   | (f) a pension payment in respect of death or injury sustained in the explosion at Halifax in 1917 received from the Halifax Relief Commission the incorporation of which was confirmed by Chapter 24 of the Statutes of Canada, 1918;   | (f). Paragraph 10(1)(f)           |
| Compensation by Federal Republic of Germany | (g) a payment made by the Federal Republic of Germany or by a public body performing a function of government within that country as compensation to a victim of National Socialist persecution, where no tax is payable in respect of that payment under a law of the Federal Republic of Germany that imposes an income tax;  | (g). Paragraph 10(1)(fa)          |
| Workmen's compensation                      | (h) compensation received under an employees' or workmen's compensation law of Canada or a province in respect of an injury, disability or death, except any such compensation received by a person as the employer or former employer of the person in respect of whose injury, disability or death the compensation was paid; | (h). Paragraph 10(1)(g), modified |
| R.C.M.P. pension or compensation            | (i) a pension payment or compensation received under section 5, 31 or 45 of the <i>Royal Canadian Mounted Police Pension Continuation Act</i> or section 27 of the <i>Royal Canadian Mounted Police Superannuation Act</i> , in respect of an injury, disability or death;  | (i). Paragraph 10(1)(ga)          |

## Subsection 81(1)

|  |   |                                    |
|--|---|------------------------------------|
| Social assistance payments               | (j) the amount of any social assistance payment made on a means or a needs test basis,<br>(i) by a registered Canadian charitable organization, or<br>(ii) under a prescribed program provided for by an Act of the Parliament of Canada or a law of a province;  | (j). Paragraph 10(1)(gb), modified |
| Employees profit sharing plan            | (k) a payment or part of a payment from an employees profit sharing plan that section 144 provides is not to be included;   | (k). Paragraph 10(1)(i)            |
| Prospecting                              | (l) an amount in respect of the receipt of a share that section 35 provides is not to be included;  | (l). Paragraph 10(1)(j)            |
| Interest on certain bonds and debentures | (m) interest received by a corporation resident in Canada on a bond or debenture received by it as consideration for the disposition by it before June 18, 1971 of a business that was carried on by it in a country other than Canada or of all of the shares of a corporation that carried on a business in a country other than Canada, if<br>(i) the business was of a public utility or public service nature,<br>(ii) the business or shares, as the case may be, was or were disposed of to a person or persons resident in that country, and<br>(iii) the bond or debenture, as the case may be, was issued by or guaranteed by the government of that country or any agent thereof; or | (m). New                           |
| Governor General                         | (n) income from the office of Governor General of Canada.   | (n). Paragraph 10(1)(k)            |
| M.L.A.'s expense allowance               | (2) Where an elected member of a provincial legislative assembly has, under an Act of the provincial legislature, been paid an allowance in a taxation year for expenses incident to the discharge of his duties as a member, the allowance shall not be included in computing his income for the year unless it exceeds 1/2 of the maximum fixed amount provided by law as payable to him by way of salary, indemnity and other remuneration as a member in respect of attendance at a session of the legislature, in which event there shall be included in computing his income for the year only the amount by which the allowance exceeds 1/2 of that maximum fixed amount.                | (2). Subsection 10(2)              |



## Section 81

(3). Subsection 10(3), modified

Municipal  
officers'  
expense  
allowance

(3) Where

(a) an elected officer of an incorporated municipality, or

(b) an officer of a school board or school district, a municipal utilities board, commission or corporation or any other similar body, the incumbent of whose office as such an officer is elected by popular vote,

has been paid by the municipal corporation or the body of which he was such an officer (in this subsection referred to as his "employer") an amount as an allowance in a taxation year for expenses incident to the discharge of his duties as such an officer, the allowance shall not be included in computing his income for the year unless it exceeds  $\frac{1}{2}$  of the amount that was paid to him in the year by his employer as salary or other remuneration as such an officer, in which event there shall be included in computing his income for the year only the amount by which the allowance exceeds  $\frac{1}{2}$  of the amount so paid to him by way of salary or remuneration.

## Subdivision h —

Corporations Resident in  
Canada and their ShareholdersTaxable  
dividends  
received

82. (1) In computing the income of a taxpayer for a taxation year, there shall be included

(a) all amounts received by him in the year from corporations resident in Canada as, on account or in lieu of payment of, or in satisfaction of, taxable dividends,

plus

(b) where the taxpayer is an individual,  $\frac{1}{3}$  of the aggregate of all amounts described in paragraph (a) received by him in the year from taxable Canadian corporations.

82. (1). New

*Subsection 82(1)*

(2). New

Certain  
dividends  
deemed  
received by  
taxpayer

(2) Where, by virtue of subsection 56(4) or section 74 or 75, there is included in computing a taxpayer's income for a taxation year a dividend received by some other person, for the purpose of this section and section 121 the dividend shall be deemed to have been received by the taxpayer.

Dividend  
out of  
tax-paid  
undistrib-  
uted  
surplus  
or 1971  
capital  
surplus

83. (1) Where at any particular time after 1971 a dividend becomes payable by a corporation resident in Canada to shareholders of any class of shares of its capital stock, if the corporation so elects in respect of the full amount of the dividend, in prescribed manner and prescribed form and at or before the particular time or the first day on which any part of the dividend was paid if that day is earlier than the particular time, the following rules apply:

83. (1). New

(a) the dividend shall be deemed to be payable out of the corporation's tax-paid undistributed surplus on hand to the extent that the portion of the dividend designated in the election to be payable out of such surplus does not exceed the corporation's tax-paid undistributed surplus on hand immediately before the particular time;

(b) where the corporation's 1971 undistributed income on hand at the particular time is nil, the dividend shall be deemed to be payable out of the corporation's 1971 capital surplus on hand to the extent that the portion of the dividend designated in the election to be payable out of such surplus does not exceed the corporation's 1971 capital surplus on hand immediately before the particular time;

(c) no part of the dividend shall be included in computing the income of any shareholder of the corporation by virtue of this subdivision; and

*Subsection 83(1)*

(d) in computing the adjusted cost base to any shareholder of the corporation of any share of the capital stock of the corporation owned by him, there shall be deducted in respect of the dividend an amount as provided by subparagraph 53(2)(a)(i).

(2) Where at any particular time after 1971 a dividend becomes payable by a private corporation to shareholders of any class of shares of its capital stock and

(a) the corporation's 1971 undistributed income on hand,

(b) the corporation's tax-paid undistributed surplus on hand, and

(c) the corporation's 1971 capital surplus on hand,

immediately before the particular time are nil, if the corporation so elects in respect of the full amount of the dividend, in prescribed manner and prescribed form and at or before the particular time or the first day on which any part of the dividend was paid if that day is earlier than the particular time, the following rules apply:

(d) the dividend shall be deemed to be a capital dividend to the extent that it does not exceed the corporation's capital dividend account at the particular time; and

(e) no part of the dividend shall be included in computing the income of any shareholder of the corporation.

(2). New

84. (1) Where a corporation resident in Canada has at any time after 1971 increased the paid-up capital in respect of the shares of any particular class of its capital stock, otherwise than by

(a) payment of a stock dividend,

(b) a transaction by which

(i) the value of its assets less its liabilities has been increased, or

(ii) its liabilities less the value of its assets have been decreased,

by an amount not less than the amount of the increase in the paid-up capital in respect of the shares of the particular class, or

84. (1). Subsection 81(8), modified

Capital  
dividend

Deemed  
dividend

*Subsection 84(1)*

(c) a transaction by which the paid-up capital in respect of the shares of all other classes of its capital stock has been reduced by an amount not less than the amount of the increase in the paid-up capital in respect of the shares of the particular class,

the corporation shall be deemed to have paid at that time a dividend on the issued shares of the particular class equal to the amount, if any, by which the amount of the increase in the paid-up capital exceeds the aggregate of

(d) the amount, if any, of the increase referred to in subparagraph (b)(i) or the decrease referred to in subparagraph (b)(ii), as the case may be, and

(e) the amount, if any, of the reduction referred to in paragraph (c),

and a dividend shall be deemed to have been received at that time by each person who held any of the issued shares of the particular class at that time equal to that proportion of the dividend so deemed to have been paid by the corporation that the number of the shares of the particular class held by him at that time is of the number of the issued shares of that class outstanding at that time.

Distributions on winding-up, etc.

(2) Where funds or property of a corporation resident in Canada have at any time after 1971 been distributed or otherwise appropriated in any manner whatever to or for the benefit of the shareholders of any class of shares in its capital stock, on the winding-up, discontinuance or reorganization of its business, the corporation shall be deemed to have paid at that time a dividend on shares of that class equal to the amount, if any, by which,

(a) the amount or value of the funds or property distributed or appropriated, as the case may be,

exceeds the lesser of

(b) the amount, if any, by which the paid-up capital in respect of the shares of that class immediately before that time is reduced on the distribution or appropriation, as the case may be, and

(2). Subsection 81(1), modified



*Subsection 84(2)*

(c) the paid-up capital limit of the corporation immediately before that time, and a dividend shall be deemed to have been received at that time by each person who held any of the issued shares at that time equal to that proportion of the amount of the excess that the number of the shares of that class held by him immediately before that time is of the number of the issued shares of that class outstanding immediately before that time.

Redemption, etc.

(3) Where at any time after 1971 a corporation resident in Canada has redeemed, acquired or cancelled in any manner whatever (otherwise than by way of a transaction described in subsection (2)) any of the shares of any class of its capital stock, the corporation shall be deemed to have paid at that time a dividend on a class of shares comprising the shares so redeemed, acquired or cancelled, equal to,

(3). Subsection 81(2), modified

(a) in the case of any such shares in respect of the redemption or acquisition of which the corporation is required to pay tax under section 182, the amount, if any, by which the paid-up capital in respect of those shares immediately before that time exceeds the paid-up capital limit of the corporation immediately before that time, and

(b) in the case of any other such shares, the amount, if any, by which the amount paid by the corporation on the redemption, acquisition or cancellation, as the case may be, of those shares exceeds the lesser of

- (i) the paid-up capital in respect of those shares immediately before that time, and
- (ii) the amount, if any, by which the paid-up capital limit of the corporation immediately before that time exceeds the amount that was its paid-up capital in respect of the shares referred to in paragraph (a) so redeemed, acquired or cancelled at that time,

and a dividend shall be deemed to have been received at that time by each person who held any of those shares at that time equal to the aggregate of

*Subsection 84(3)*

(c) that proportion of the excess referred to in paragraph (a) that the number of those shares held by him immediately before that time and described in that paragraph is of the total number of those shares described in that paragraph, and

(d) that proportion of the excess referred to in paragraph (b) that the number of those shares held by him immediately before that time and not described in paragraph (a) is of the total number of those shares not described in that paragraph.

Reduction  
of paid-up  
capital

(4) Where at any time after 1971 a corporation resident in Canada has reduced the paid-up capital in respect of any shares of any class of its capital stock otherwise than by way of a redemption, acquisition or cancellation of those shares or a transaction described in subsection (2),

(a) the corporation shall be deemed to have paid at that time a dividend on shares of that class equal to the amount, if any, by which the amount paid by it on the reduction of the paid-up capital exceeds the paid-up capital limit of the corporation immediately before that time, and

(b) a dividend shall be deemed to have been received at that time by each person who held any of the issued shares at that time equal to that proportion of the amount of the excess referred to in paragraph (a) that the number of the shares of that class held by him immediately before that time is of the number of the issued shares of that class outstanding immediately before that time.

Amount  
distributed  
or paid  
where a  
share

(5) Where

(a) the amount of the property distributed or appropriated by a corporation as described in paragraph (2)(a), or

(b) the amount paid by a corporation as described in paragraph (3)(b) or (4)(a),

includes a share of the capital stock of the corporation, for the purposes of subsections (2) to (4) the following rules apply:

(4). New

(5). New

*Subsection 84(5)*

(c) in computing that amount at any time, the share shall be valued at an amount equal to the paid-up capital in respect of the share at that time; and

(d) the value of the share shall be included in computing the paid-up capital limit of the corporation immediately before that time.

Application  
of ss. (2)  
or (3)

(6) Subsection (2) or (3), as the case may be, is not applicable

(6). New

(a) in respect of any transaction or event, if subsection (1) is applicable in respect of that transaction or event; and

(b) in respect of any purchase by a corporation of any of its shares in the open market, if the corporation acquired those shares in the manner in which shares would normally be purchased by any member of the public in the open market.

When  
dividend  
payable

(7) A dividend that is deemed by this section to have been paid at a particular time shall be deemed, for the purposes of this subdivision, to have become payable at that time.

(7). New

Transfer of  
property  
to cor-  
poration  
by con-  
trolling  
shareholder

85. (1) Where a taxpayer has, after 1971, disposed of any property that was a capital property or eligible capital property of the taxpayer to a Canadian corporation, and immediately after the disposition owned not less than 80% of the issued shares of each class of the capital stock of the corporation, if the taxpayer and the corporation have jointly so elected in prescribed form and within prescribed time the following rules apply:

85. (1). New

(a) the amount that the taxpayer and the corporation have agreed upon in their election in respect of the property shall be deemed to be the taxpayer's proceeds of disposition of the property and the corporation's cost of the property;

*Subsection 85(1)*

(b) where the amount that the taxpayer and the corporation have agreed upon in their election in respect of the property is less than the fair market value, at the time of the disposition, of the consideration therefor (other than any shares of the capital stock of the corporation or a right to receive any such shares) received by the taxpayer, the amount so agreed upon shall, irrespective of the amount actually so agreed upon by them, be deemed to be an amount equal to that fair market value;

(c) where the amount that the taxpayer and the corporation have agreed upon in their election in respect of the property is greater than the fair market value, at the time of the disposition, of the property so disposed of, the amount so agreed upon shall, irrespective of the amount actually so agreed upon, be deemed to be an amount equal to that fair market value;

(d) where the property was eligible capital property in respect of a business of the taxpayer and the amount that, but for this paragraph, would be the proceeds of disposition thereof is less than the least of

(i) 2 times the taxpayer's cumulative eligible capital in respect of the business immediately before the disposition,

(ii) the cost to the taxpayer of the property, and

(iii) the fair market value of the property at the time of the disposition,

the amount agreed upon by the taxpayer and the corporation in their election in respect of the property shall, irrespective of the amount actually so agreed upon by them, and notwithstanding paragraphs (b) and (c), be deemed to be the least of the amounts described in subparagraphs (i) to (iii);

(e) where the property was depreciable property of a prescribed class of the taxpayer and the amount that, but for this paragraph, would be the proceeds of disposition thereof is less than the least of



*Subsection 85(1)*

- (i) the undepreciated capital cost to the taxpayer of all property of that class immediately before the disposition,
- (ii) the cost to the taxpayer of the property, and
- (iii) the fair market value of the property at the time of the disposition,

the amount agreed upon by the taxpayer and the corporation in their election in respect of the property shall, irrespective of the amount actually so agreed upon by them, and notwithstanding paragraphs (b) and (c), be deemed to be the least of the amounts described in subparagraphs (i) to (iii);

(f) the cost to the taxpayer of any property (other than shares of the capital stock of the corporation or a right to receive any such shares) received by him as consideration for the disposition shall be deemed to be the amount that was the fair market value of the property at the time of the disposition;

(g) the cost to the taxpayer of any preferred shares of any class of the capital stock of the corporation receivable by him as consideration for the disposition shall be deemed to be the lesser of the fair market value of those shares immediately after the disposition and that proportion of the amount, if any, by which the proceeds of the disposition exceed the fair market value of the consideration (other than shares of the capital stock of the corporation or a right to receive any such shares) received by him for the disposition, that

- (i) the fair market value, immediately after the disposition, of those preferred shares of that class,

is of

- (ii) the fair market value, immediately after the disposition, of all preferred shares of the capital stock of the corporation receivable by him as consideration for the disposition;

(h) the cost to the taxpayer of any common shares of any class of the capital stock of the corporation receivable by him as consideration for the disposition shall be deemed to be that proportion of the amount, if any, by which the proceeds of the disposition exceed the aggregate of the fair market value, at the time of the disposition, of the consideration (other than shares of the capital stock of the corporation or a right to receive any such shares) received by him for the disposition and the cost to him of all preferred shares of the capital stock of the corporation receivable by him as consideration for the disposition, that

(i) the fair market value, immediately after the disposition, of those common shares of that class,

is of

(ii) the fair market value, immediately after the disposition, of all common shares of the capital stock of the corporation receivable by him as consideration for the disposition; and

(i) for greater certainty, where the application of this subsection results in a capital loss of the taxpayer from the disposition of any property, subsection (4) is applicable.

Transfer of  
property to  
corporation  
from  
partnership

(2) Where, after 1971,

(a) partnership property of a partnership has been disposed of to a Canadian corporation,

(b) immediately after the disposition, not less than 80% of the shares of each class of the capital stock of the corporation was partnership property, and

(c) the corporation and all the members of the partnership have so elected in respect of the disposition, in prescribed form and within prescribed time,

paragraphs (1)(a) to (i) are applicable in respect of the disposition *mutatis mutandis* as if the partnership were a taxpayer resident in Canada who had disposed of the property to the corporation.

(2). New

## (3). New

Where  
partnership  
wound up

(3) Where,

(a) in respect of any disposition of partnership property of a partnership to a corporation, subsection (2) applies;

(b) the affairs of the partnership were wound up within 60 days after the disposition; and

(c) immediately before the winding-up there was no partnership property other than money or property received from the corporation as consideration for the disposition,

the following rules apply:

(d) the cost to any member of the partnership of any property (other than shares of the capital stock of the corporation or a right to receive any such shares) received by him as consideration for the disposition of his partnership interest on the winding-up shall be deemed to be the fair market value of the property at the time of the winding-up;

(e) the cost to any member of the partnership of any preferred shares of any class of the capital stock of the corporation receivable by him as consideration for the disposition of his partnership interest on the winding-up shall be deemed to be

(i) where any common shares of the capital stock of the corporation were also receivable by him as consideration for the disposition of the interest, the lesser of

(A) the fair market value, immediately after the winding-up, of the preferred shares of that class so receivable by him, and

(B) that proportion of the amount, if any, by which the adjusted cost base to him of his partnership interest immediately before the winding-up exceeds the aggregate of the fair market value, at the time of the winding-up, of the consideration (other than shares of the capital stock of the corporation or a right to receive any such shares) received by him for the disposition of the interest, that

1. the fair market value, immediately after the winding-up, of the preferred shares of that class so receivable by him,

is of

2. the fair market value, immediately after the winding-up, of all preferred shares of the capital stock of the corporation receivable by him as consideration for the disposition, and

(ii) in any other case, the amount determined under clause (i)(B);

(f) the cost to any member of the partnership of any common shares of any class of the capital stock of the corporation receivable by him as consideration for the disposition of his partnership interest on the winding-up shall be deemed to be that proportion of the amount, if any, by which the adjusted cost base to him of his partnership interest immediately before the winding-up exceeds the aggregate of the fair market value, at the time of the winding-up, of the consideration (other than shares of the capital stock of the corporation or a right to receive any such shares) received by him for the disposition of the interest and the cost to him of all preferred shares of the capital stock of the corporation receivable by him as consideration for the disposition of the interest, that

(i) the fair market value, immediately after the winding-up, of the common shares of that class so receivable by him,

is of

(ii) the fair market value, immediately after the winding-up, of all common shares of the capital stock of the corporation so receivable by him as consideration for the disposition; and



(g) the proceeds of disposition of the partnership interest of any member of the partnership shall be deemed to be the cost to him of all shares and property receivable or received by him as consideration for the disposition of the interest plus the amount of any money received by him as consideration for the disposition.

Where capital loss from disposition of property to controlled corporation

(4) Where a taxpayer has, after 1971, disposed of any capital property of the taxpayer to a corporation that, immediately after the disposition, was controlled, directly or indirectly in any manner whatever, by the taxpayer or by a person or group of persons by whom the taxpayer was controlled directly or indirectly in any manner whatever, and, but for this subsection, the taxpayer would have had a capital loss therefrom, the following rules apply:

(4). New

(a) his capital loss therefrom otherwise determined shall be deemed to be nil;

(b) where, immediately after the disposition, the taxpayer owned any common shares of any class of the capital stock of the corporation, in computing the adjusted cost base to him of all common shares of that class owned by him immediately after the disposition there shall be added that proportion of the amount, if any, by which the adjusted cost base to him, immediately before the disposition, of the property so disposed of exceeds his proceeds of the disposition, that

(i) the fair market value, immediately after the disposition, of all common shares of that class so owned by him,

is of

(ii) the fair market value, immediately after the disposition, of all common shares of the capital stock of the corporation owned by him immediately after the disposition; and

(c) where, immediately after the disposition, the taxpayer owned no common shares of any class of the capital stock of the corporation, in computing the adjusted cost base to him of all preferred shares of any class of the capital stock of the corporation owned by him at that time, there shall be added that proportion of the amount, if any, by which the adjusted cost base to him, immediately before the disposition, of the property so disposed of exceeds his proceeds of the disposition, that

(i) the fair market value, immediately after the disposition, of all preferred shares of that class so owned by him,

is of

(ii) the fair market value, immediately after the disposition, of all preferred shares of the capital stock of the corporation owned by him immediately after the disposition.

(5) Where subsection (1) or (2) has been applicable in respect of any disposition of any depreciable property to a corporation (in this subsection referred to as "the transferee") and the capital cost to the transferor of the property exceeds the transferor's proceeds of the disposition, for the purposes of sections 13 and 20 and any regulations made under paragraph 20(1)(a)

(a) the capital cost of the property to the transferee shall be deemed to be the amount that was the capital cost thereof to the transferor, and

(b) the excess shall be deemed to have been allowed to the transferee in respect of the property under regulations made under paragraph 20(1)(a) in computing income for taxation years before the acquisition by the transferee of the property.

(5). New

Rules  
where  
depreciable  
property  
transferred  
to con-  
trolled  
corporation

Disposition  
of shares  
by a share-  
holder in  
course of  
reorganiza-  
tion of  
capital

86. (1) Where in the course of a reorganization of the capital of a corporation, a taxpayer has, after 1971, disposed of, and the corporation has acquired, category A shares of any class of the capital stock of the corporation, the following rules apply:

(a) the cost to the taxpayer of any property (other than shares of the capital stock of the corporation or a right to receive any such shares) received by him as consideration for the disposition shall be deemed to be its fair market value at the time of the disposition;

(b) the cost to the taxpayer of any category B shares of any class of the capital stock of the corporation receivable by him as consideration for the disposition shall be deemed to be,

(i) where category A shares were also receivable by him as consideration for the disposition, the lesser of

(A) the fair market value, immediately after the disposition, of those category B shares of that class, and

(B) that proportion of the amount, if any, by which the adjusted cost base to him, immediately before the disposition, of the category A shares so disposed of exceeds the fair market value of the consideration for the disposition (other than shares of the capital stock of the corporation or a right to receive any such shares) received by him from the corporation, that

1. the fair market value, immediately after the disposition, of those category B shares of that class,

is of

2. the fair market value, immediately after the disposition, of all category B shares of the capital stock of the corporation receivable by him as consideration for the disposition, and

86. (1). New

(ii) in any other case, the amount determined under clause (i)(B);

(c) the cost to the taxpayer of any category A shares of any class of the capital stock of the corporation receivable by him as consideration for the disposition shall be deemed to be that proportion of the amount, if any, by which the adjusted cost base to him, immediately before the disposition, of the category A shares so disposed of exceeds the aggregate of the fair market value of the consideration (other than shares of the capital stock of the corporation or a right to receive any such shares) received by him from the corporation as consideration for the disposition and the cost to him of all category B shares of the capital stock of the corporation receivable by him as consideration for the disposition, that

(i) the fair market value, immediately after the disposition, of the category A shares of that class receivable by him as consideration for the disposition,

is of

(ii) the fair market value, immediately after the disposition, of all category A shares of the capital stock of the corporation receivable by him as consideration for the disposition; and

(d) his proceeds of the disposition of the shares shall be deemed to be the cost to him of all shares and other property receivable or received by him as consideration for the disposition of the shares plus the amount of any money received by him on the disposition.

#### Definitions

"Category A share"

(2) For the purposes of this section,

(a) "category A share" means a common share where the taxpayer has disposed of a common share in the course of a reorganization, and means a preferred share where the taxpayer has disposed of a preferred share in the course of a reorganization; and

"Category B share"

(b) "category B share" means a preferred share where a category A share means a common share, and means a common share where a category A share means a preferred share.

(2). New



## Section 86

Application

(3) This section is not applicable in any case where any of subsections 85(1) to (3) is applicable.

(3). New

Amalgamations

87. (1) In this section, an amalgamation means a merger of two or more corporations each of which was, immediately before the merger, a Canadian corporation (each of which corporations is referred to in this section as a "predecessor corporation") to form one corporate entity (in this section referred to as the "new corporation") in such manner that

87. (1). Subsection 85I(1), modified

(a) all of the property of the predecessor corporations immediately before the merger becomes property of the new corporation by virtue of the merger,

(b) all of the liabilities of the predecessor corporations immediately before the merger become liabilities of the new corporation by virtue of the merger, and

(c) all of the shareholders (except any predecessor corporation) of the predecessor corporations immediately before the merger become shareholders of the new corporation by virtue of the merger,

otherwise than as a result of the acquisition of property of one corporation by another corporation, pursuant to the purchase of such property by the other corporation or as a result of the distribution of such property to the other corporation upon the winding-up of the corporation.

Rules applicable

(2) Where there has been an amalgamation of two or more corporations after 1971 the following rules apply:

(2). Subsection 85I(2), modified

Taxation year

(a) for the purposes of this Act, the corporate entity formed as a result of the amalgamation shall be deemed to be a new corporation the first taxation year of which shall be deemed to have commenced at the time of the amalgamation, and a taxation year of a predecessor corporation that would otherwise have ended after the amalgamation shall be deemed to have ended immediately before the amalgamation;

(a). Paragraph 85I(2)(a)

*Subsection 87(2)*

Inventory

(b) for the purpose of computing the income of the new corporation for its first taxation year, where the property described in the inventory, if any, of the new corporation at the commencement of that year includes

(i) property that was described in the inventory of a predecessor corporation at the end of the taxation year of the predecessor corporation that ended immediately before the amalgamation (which taxation year of a predecessor corporation is referred to in this section as its "last taxation year"), or

(ii) property that would have been described in the inventory of the predecessor corporation at the end of its last taxation year if its income for that year had not been computed in accordance with the method authorized by subsection 28(1), the property so included shall be deemed to have been acquired by the new corporation at the commencement of its first taxation year for an amount determined in accordance with section 10 as the value thereof for the purpose of computing the income of the predecessor corporation for its last taxation year, except that where the income of the predecessor corporation for its last taxation year was computed in accordance with the method authorized by subsection 28(1), the amount so determined shall be deemed to be nil;

Method  
adopted for  
computing  
income

(c) where the method adopted by the new corporation for computing its income for a taxation year from a business is not the same as the method adopted by a predecessor corporation for computing its income for its last taxation year or a previous taxation year, in computing the income of the new corporation for that taxation year from the business

(b). Paragraph 851(2)(b)

(c). Paragraph 851(2)(c), modified

(i) there shall be included any amount received by it in that year in payment of or on account of a debt owing to the predecessor corporation that would, if it had been received by the predecessor corporation in its last taxation year, have been included in computing the income of the predecessor corporation for that year, and

(ii) there may be deducted any amount paid by it in that year in payment of or on account of a debt owing by the predecessor corporation that would, if it had been paid by the predecessor corporation in its last taxation year, have been deductible in computing the income of the predecessor corporation for that year;

(d) for the purposes of sections 13 and 20 and any regulations made under paragraph 20(1)(a),

(i) where depreciable property of a prescribed class has been acquired by the new corporation from a predecessor corporation, the capital cost of the property to the new corporation shall be deemed to be the amount that was the capital cost thereof to the predecessor corporation, and

(ii) in determining the undepreciated capital cost to the new corporation of depreciable property of a prescribed class at any time,

(A) there shall be added to the capital cost to the new corporation of depreciable property of that class acquired before that time the undepreciated capital cost to each of the predecessor corporations of property of that class immediately before the amalgamation,

(B) there shall be subtracted from the capital cost to the new corporation of depreciable property of that class acquired before that time the capital cost to the new corporation of property of that class acquired by virtue of the amalgamation,

(d). Paragraph 85I(2)(d)

Depreciable  
property

*Subsection 87(2)*

(C) a reference in subparagraph 13(5)(a)(ii) to amounts that would have been allowed to a taxpayer in respect of transferred property, at the rate that was allowed to the taxpayer in respect of property of a prescribed class, shall be construed as including a reference to amounts that would have been allowed to a predecessor corporation in respect of that property at the rate that was allowed to the predecessor corporation in respect of property of that prescribed class, and

(D) where depreciable property that is deemed by subsection 37(6) to be a separate prescribed class has been acquired by the new corporation from a predecessor corporation, the property shall continue to be deemed to be of that same separate prescribed class;

(e) where any capital property (other than depreciable property) has been acquired by the new corporation from a predecessor corporation, the cost of the property to the new corporation shall be deemed to be the amount that was the adjusted cost base thereof to the predecessor corporation immediately before the amalgamation;

(f) for the purposes of computing the cumulative eligible capital of the new corporation at any time in respect of a business, where a predecessor corporation carried on a business that is carried on by the new corporation the amount of the cumulative eligible capital of the predecessor corporation immediately before the amalgamation in respect of that business shall be added to the amount determined under subparagraph 14(5)(a)(i) in respect thereof;

(g) for the purpose of computing the income of the new corporation for a taxation year,

(e). New

(f). New

(g). Paragraph 851(2)(e), modified

Capital  
property

Cumulative  
eligible  
capital

Reserves



(i) any amount that has been deducted as a reserve in computing the income of a predecessor corporation for its last taxation year shall be deemed to have been deducted as a reserve in computing the income of the new corporation for a taxation year immediately preceding its first taxation year, and

(ii) any amount deducted under paragraph 20(1)(p) in computing the income of a predecessor corporation for its last taxation year or a previous taxation year shall be deemed to have been deducted thereunder in computing the income of the new corporation for a taxation year immediately preceding its first taxation year;

Debts

(h) for the purpose of computing a deduction from the income of the new corporation for a taxation year under paragraph 20(1)(l) or (p) or section 33, where any debt owing to a predecessor corporation

(h). Paragraph 851(2)(f)

(i) that was included in computing the income of the predecessor corporation for its last taxation year or a previous taxation year, or

(ii) that arose from a loan made in the ordinary course of business by the predecessor corporation, part of whose ordinary business was the lending of money,

has, by virtue of the amalgamation, been acquired by the new corporation, the amount thereof shall be deemed to be a debt owing to the new corporation that was included in computing the income of the new corporation for a previous taxation year or that arose from a loan so made by it, as the case may be;

## Subsection 87(2)

Special  
reserve

(i) for the purpose of computing a deduction from the income of the new corporation for a taxation year under paragraph 20(1)(n), any amount included in computing the income of a predecessor corporation from a business for its last taxation year or a previous taxation year in respect of property sold in the course of the business shall be deemed to have been included in computing the income of the new corporation from the business for a previous year in respect thereof;

(i). Paragraph 85I(2)(m)

Idem

(j) for the purpose of computing a deduction from the income of the new corporation for a taxation year under paragraph 20(1)(m) or section 32, any amount included in computing the income of a predecessor corporation from a business for its last taxation year or a previous taxation year by virtue of paragraph 12(1)(a) shall be deemed to have been included in computing the income of the new corporation from the business for a previous taxation year by virtue thereof;

(j). Paragraph 85I(2)(n), modified

Certain  
payments  
to  
employees

(k) for the purpose of subsection 6(3), any amount received by a person from the new corporation that would, if received by him from a predecessor corporation, be deemed for the purpose of section 5 to be remuneration for that person's services rendered as an officer or during a period of employment, shall be deemed for the purposes of section 5 to be remuneration for services so rendered by him;

(k). Paragraph 85I(2)(g)

Scientific  
research

(l) for the purpose of section 37, any expenditure of a capital nature on scientific research made by a predecessor corporation in its last taxation year or a previous taxation year that would have been deductible by the predecessor corporation by virtue of paragraph 37(1)(b) in computing its income for its last taxation year shall, to the extent that such expenditure was not deducted by the predecessor corporation, be deemed to be an expenditure of a capital nature on scientific research made in Canada by the new corporation in its first taxation year;

(l). Paragraph 85I(2)(jb)

## Subsection 87(2)

Proceeds  
not due  
until  
after  
end of  
year

(*m*) for the purpose of computing the income of the new corporation for its first taxation year and any subsequent taxation year, any amount claimed under subparagraph 40(1)(a)(iii) in computing a predecessor corporation's gain for its last taxation year from the disposition of any property shall be deemed

(i) to have been claimed under this subparagraph in computing the new corporation's gain for a taxation year immediately preceding its first taxation year from the disposition of that property by it before its first taxation year, and

(ii) to be the amount determined under subparagraph 40(1)(a)(i) in respect of that property;

Outlays  
made  
pursuant  
to  
warranty

(*n*) for the purpose of section 42, any outlay or expense made or incurred by the new corporation in a taxation year, pursuant to or by virtue of an obligation described in that section incurred by a predecessor corporation, that would, if the outlay or expense had been made or incurred by the predecessor corporation in that year, have been deemed to be a loss of the predecessor corporation for that year from the disposition of a capital property shall be deemed to be a loss of the new corporation for that year from the disposition of a capital property;

Expiry  
of  
options  
previously  
granted

(*o*) for the purpose of subsection 49(2), any option granted by a predecessor corporation that expires after the amalgamation shall be deemed to have been granted by the new corporation, and any proceeds received by the predecessor corporation for the granting of the option shall be deemed to have been received by the new corporation therefor;

Considera-  
tion for  
resource  
property  
disposition

(*p*) for the purpose of computing a deduction from the income of the new corporation for a taxation year under section 64, any amount that has been included in computing the income of a predecessor corporation for its last taxation year or a previous taxation year by virtue of subsection 59(1) or (3), or by virtue of subsection 83A(5ba) or (5c) of this Act as it read in its application to a taxation year

(*m*). New

(*n*). New

(*o*). New

(*p*). New

before the 1972 taxation year, shall be deemed to have been included in computing the income of the new corporation for a previous year by virtue thereof;

Tax-paid  
undistrib-  
uted  
surplus on  
hand

(q) for the purpose of computing the tax-paid undistributed surplus on hand of the new corporation at any time, where a predecessor corporation had tax-paid undistributed surplus on hand immediately before the amalgamation the amount thereof shall be added to the aggregate of the amounts determined under subparagraphs 89(1)(k)(i) to (iii);

(q). New

1971  
capital  
surplus  
on hand

(r) for the purpose of computing the 1971 capital surplus on hand of the new corporation at any time, there shall be added to the aggregate of the amounts determined under subparagraphs 89(1)(l)(i) to (iv) the amount, if any, by which

(r). New

(i) the aggregate of amounts each of which is the 1971 capital surplus on hand, if any, of a predecessor corporation immediately before the amalgamation

exceeds

(ii) the aggregate of amounts each of which is the paid-up capital deficiency, if any, of a predecessor corporation immediately before the amalgamation;

Paid-up  
capital  
deficiency

(s) for the purpose of computing the paid-up capital deficiency of the new corporation at any time, there shall be added to the aggregate of the amounts determined under subparagraphs 89(1)(d)(i) to (iv) the amount, if any, by which

(s). New

(i) the aggregate of amounts each of which is the paid-up capital deficiency, if any, of a predecessor corporation immediately before the amalgamation

exceeds

(ii) the aggregate of amounts each of which is the 1971 capital surplus on hand, if any, of a predecessor corporation immediately before the amalgamation;



## Subsection 87(2)

Idem

(*t*) for the purpose of computing the 1971 capital surplus on hand or the paid-up capital deficiency, as the case may be, of the new corporation, in determining any amount under subparagraph 89(1)(*I*)(ii) or (vii) any capital property owned by a predecessor corporation on December 31, 1971 that was acquired by the new corporation by virtue of the amalgamation shall be deemed to have been acquired by the new corporation before 1972 at an actual cost to it equal to the actual cost of the property to the predecessor corporation;

Shares of foreign affiliate

(*u*) where one or more shares of the capital stock of a foreign affiliate of a predecessor corporation have, by virtue of the amalgamation, been acquired by the new corporation and as a result thereof the affiliate has become a foreign affiliate of the new corporation,

(i) for the purposes of subsection 90(2), paragraph 92(1)(*b*) and subsection 93(1), any amount required by section 92 to be added or deducted, as the case may be, in computing the adjusted cost base of any such share to the predecessor corporation before the amalgamation shall be deemed to have been so required to be added or deducted, as the case may be, in computing the adjusted cost base of the share to the new corporation, and

(ii) for the purpose of subsection 93(2), any exempt dividend received by the predecessor corporation on any such share shall be deemed to be an exempt dividend received by the new corporation on the share;

Charitable donations

(*v*) for the purposes of paragraphs 110(1)(*a*) and (*b*), gifts made by a predecessor corporation in its last taxation year shall, to the extent that they were not deductible in computing its taxable income for that taxation year, be deemed to have been made by the new corporation in a taxation year immediately preceding its first taxation year;

(t). New

(u). New

(v). Paragraph 85I(2)(*h*)

*Subsection 87(2)*

|                              |   |                                    |
|------------------------------|---|------------------------------------|
| Losses                       | (w) for the purpose of section 111, a non-capital loss, net capital loss or restricted farm loss of a predecessor corporation for a taxation year is not deductible in computing the taxable income of the new corporation;   | (w). Paragraph 851(2)(i), modified |
| Taxable dividends            | (x) for the purposes of subsections 112(3) and (4), where a share owned by a predecessor corporation has, by virtue of the amalgamation, been acquired by the new corporation any taxable dividend received on the share by the predecessor corporation that was deductible from the predecessor corporation's income for a taxation year under section 112 shall be deemed to be a taxable dividend received by the new corporation that was deductible from the new corporation's income for a taxation year under section 112;   | (x). New                           |
| Cumulative deduction account | (y) for the purpose of computing the cumulative deduction account (within the meaning assigned by subsection 125(6)) of the new corporation at the end of a taxation year immediately preceding its first taxation year or at the end of any subsequent taxation year there shall be added to the amount determined under paragraph 125(6)(b) from which the aggregate of the amounts referred to in subparagraphs (iii) to (v) thereof is to be subtracted, the aggregate of amounts each of which is an amount in respect of a predecessor corporation, equal to the amount that would have been the predecessor corporation's cumulative deduction account immediately before the amalgamation if paragraph 125(6)(b) had been read without reference to subparagraph (v) thereof; | (y). New                           |
| Foreign tax carryover        | (z) for the purpose of computing the foreign-tax carryover (within the meaning assigned by subsection 126(7)) of the new corporation for any taxation year,<br>(i) the amount determined under paragraph 126(2)(a) in respect of the new corporation for a taxation year immediately preceding its first taxation year in respect of a particular country, and  | (z). New                           |

(ii) the business-income tax paid by the new corporation for a taxation year immediately preceding its first taxation year in respect of businesses carried on by it in that country,

shall be deemed to be the aggregate of amounts each of which is an amount in respect of a predecessor corporation, equal to the amount that the predecessor corporation's foreign tax carryover in respect of that country would have been for its taxation year immediately following its last taxation year if it had had such a following taxation year;

(aa) in the case of a new corporation that is a private corporation, for the purpose of computing the refundable dividend tax on hand (within the meaning assigned by subsection 129(3)) of the new corporation at the end of any taxation year, where a predecessor corporation had refundable dividend tax on hand immediately before the amalgamation the amount thereof shall be added to the aggregate determined under subsection 129(3) from which the new corporation's dividend refunds are to be subtracted;

(bb) in the case of a new corporation that is a mutual fund corporation,

(i) for the purpose of computing its capital gains dividend account at any time, where a predecessor mutual fund corporation had a capital gains dividend account immediately before the amalgamation the amount thereof shall be added to the amount determined under subparagraph 131(6)(b)(i), and

(ii) for the purpose of computing its refundable capital gains tax on hand at the end of any taxation year, where a predecessor mutual fund corporation had refundable capital gains tax on hand immediately before the amalgamation the amount thereof shall be added to the amount determined under subparagraph 131(6)(d)(i);

(aa). New

(bb). New

Refundable  
dividend  
tax on  
hand

Mutual  
fund  
corpora-  
tion

*Subsection 87(2)*

(cc). New

(dd). New

(ee). New

(ff). Paragraph 851(2)(j), modified

Non-  
resident-  
owned  
investment  
corpora-  
tion

(cc) in the case of a new corporation that is a non-resident-owned investment corporation, for the purpose of computing its allowable refundable tax on hand (within the meaning assigned by subsection 133(9)) at any time, where a predecessor corporation had allowable refundable tax on hand immediately before the amalgamation the amount thereof shall be added to the aggregate determined under subparagraph 133(9)(a)(i);

Tax in  
respect of  
ineligible  
investments

(dd) for the purposes of Parts V and VI,

(i) any ineligible investment owned by a predecessor corporation immediately before the amalgamation and acquired by the new corporation by virtue of the amalgamation shall be deemed to have been acquired by the new corporation at a cost equal to the amount that was the cost thereof to the predecessor corporation,

(ii) any tax under Part V payable by a predecessor corporation for its last taxation year or a previous taxation year shall be deemed to have been tax under that Part payable by the new corporation for a previous taxation year, and

(iii) any tax under Part V refundable to a predecessor corporation for its last taxation year or a previous taxation year shall be deemed to have been tax under that Part refundable to the new corporation for a previous taxation year;

Preferred  
rate  
amount

(ee) for the purpose of computing the preferred rate amount (within the meaning assigned by subsection 189(4)) of the new corporation at any time, where a predecessor corporation had a preferred rate amount immediately before the amalgamation the amount thereof shall be added to the amount determined under subparagraph 189(4)(c)(i);

Application  
of Part II

(ff) for the purpose of section 192 except subsection (11) thereof, where a corporation was controlled by a predecessor corporation immediately before the amalgamation and has, by virtue of the amalgamation, become controlled by the new corporation, the new corporation shall be deemed to have acquired control of the corporation so controlled



at the time control thereof was acquired by the predecessor corporation;

Designated  
surplus

(gg) for the purpose of computing the designated surplus of the new corporation at any particular time, there shall be added to the aggregate of the amounts determined under subparagraphs 192(13)(a)(i) and (ii) or under subparagraphs 192(13)(b)(i) to (iii), as the case may be, the aggregate of amounts each of which is an amount in respect of a predecessor corporation, equal to

(gg). New

(i) in any case where the predecessor corporation was, immediately before the amalgamation, controlled by a corporation that, immediately after the amalgamation and thereafter without interruption until the particular time, controlled the new corporation, its designated surplus immediately before the amalgamation, and

(ii) in any other case, the amount that its designated surplus would have been immediately before the amalgamation if control of the predecessor corporation had been acquired by another corporation immediately before the amalgamation; and

(hh) for the purpose of computing the 1971 undistributed income on hand of the new corporation at any time (except as that computation applies for the purpose of determining the designated surplus of the new corporation at any time), where a predecessor corporation had 1971 undistributed income on hand immediately before the amalgamation the amount thereof shall be added to the aggregate of the amounts determined under paragraphs 196(4)(a), (b) and (c).

(hh). Paragraph 851(2)(k), modified

1971  
undistrib-  
uted  
income  
on hand

(3) Where there has been an amalgamation of two or more corporations after 1971 and, immediately before the amalgamation, one of the predecessor corporations (in this subsection referred to as the "owner corporation") owned any share of the capital stock of another of the predecessor corporations, the following rules apply:

(3). New

(a) for the purpose of computing the paid-up capital deficiency of the new corporation

Where  
share of  
predecessor  
corporation  
owned by  
another  
such  
corporation

at any time, the amount, if any, by which the paid-up capital in respect of the share immediately before the amalgamation exceeds the adjusted cost base of the share to the owner corporation immediately before the amalgamation shall be added to the aggregate of the amounts determined under subparagraphs 89(1)(d)(i) to (iv); and

(b) for the purpose of computing the post-1971 undistributed surplus on hand (within the meaning assigned by subsection 192(15)) of the new corporation at any time, the amount, if any, by which the adjusted cost base of the share to the owner corporation immediately before the amalgamation exceeds the paid-up capital in respect of the share immediately before the amalgamation shall be added to the aggregate of the amounts determined under paragraphs 192(15)(a) to (d).

Rules  
applicable  
for  
computing  
income of  
shareholder  
of pre-  
decessor  
corporation

(4) Where there has been an amalgamation of two or more corporations after 1971, for the purposes of computing the income of each shareholder (except any predecessor corporation) who owned one or more shares of the capital stock of a predecessor corporation immediately before the amalgamation, the following rules apply:

(4). New

(a) where the shareholder owned one or more preferred shares of any class of the capital stock of the predecessor corporation immediately before the amalgamation and received no consideration for the disposition of those shares on the amalgamation other than one or more preferred shares of a class of the capital stock of the new corporation having substantially the same rights and conditions attaching thereto (determined without regard to any voting rights attaching to any shares) as attached to the shares of the predecessor corporation so disposed of by him,

(i) the shareholder shall be deemed to have disposed of the preferred shares of the class of the capital stock of the predecessor corporation so disposed of by him on the amalgamation, for proceeds equal to the adjusted cost base to him of those shares immediately before the amalgamation, and

(ii) he shall be deemed to have acquired the preferred shares of the class of the capital stock of the new corporation so acquired by him as consideration for the disposition of the preferred shares described in subparagraph (i), at a cost to him equal to the proceeds described in that subparagraph; and

(b) where

(i) the shareholder owned one or more common shares of the capital stock of the predecessor corporation immediately before the amalgamation,

(ii) none of the persons (except any predecessor corporation) who owned one or more of the common shares of the capital stock of the predecessor corporation immediately before the amalgamation received any consideration for the disposition of those shares on the amalgamation, other than one or more shares of the capital stock of the new corporation, and

(iii) the persons (except any predecessor corporation) who together owned all of the common shares of the capital stock of the predecessor corporation immediately before the amalgamation, together received as consideration for the disposition of those shares on the amalgamation not less than 25% of each particular class of the issued common shares of the new corporation immediately after the amalgamation,

the shareholder

(iv) shall be deemed to have disposed of the common shares of the capital stock of the predecessor corporation so disposed of by him on the amalgamation, for proceeds equal to the adjusted cost base to him of those shares immediately before the amalgamation, and

(v) shall be deemed to have acquired the shares of any particular class of the capital stock of the new corporation so acquired by him as consideration for the disposition of the common shares described in subparagraph (iv), at a cost to him equal to that proportion of the proceeds described in subparagraph (iv) that

*Subsection 87(4)*

(A) the fair market value, immediately after the amalgamation, of all shares of that particular class so acquired by him,

is of

(B) the fair market value, immediately after the amalgamation, of all of the shares of the capital stock of the new corporation so acquired by him as consideration for the disposition of the common shares described in subparagraph (iv).

Percentage  
of shares  
received  
by share-  
holders of  
predecessor  
corporation

(5) For the purposes of subparagraph (4)(b)(iii), the percentage of any particular class of the issued common shares of the new corporation immediately after the amalgamation received as described in that subparagraph by the persons (except any predecessor corporation) who together owned all of the common shares of the capital stock of a particular predecessor corporation shall be deemed to be

(a) the percentage thereof otherwise determined,  
plus

(b) that proportion of the percentage described in paragraph (a) that

(i) the number of the issued common shares of the capital stock of the particular predecessor corporation owned by all other predecessor corporations immediately before the amalgamation

is of

(ii) the number of the issued common shares of the capital stock of the particular predecessor corporation owned by all persons (except any predecessor corporation) immediately before the amalgamation.

Canadian  
exploration  
and devel-  
opment  
expenses

(6) Where there has been an amalgamation of two or more corporations after 1971 and the new corporation is a principal-business corporation within the meaning assigned by subsection 66(15), there may be deducted by the new corporation in computing its income for a taxation year the aggregate of the following amounts in respect of expenses incurred by predecessor corporations, namely, in respect of each individual predecessor corporation, the amount that is the lesser of

(5). New

(6). Subsection 851(3), modified



(a) the aggregate of the Canadian exploration and development expenses (within the meaning assigned by subsection 66(15)) incurred by the predecessor corporation to the extent that such expenses

(i) were not deductible by the new corporation in computing its income for a previous taxation year, and were not deductible by the predecessor corporation in computing its income for its last taxation year or for a previous taxation year, and

(ii) would, but for paragraph 66(1)(b), have been deductible by the predecessor corporation in computing its income for its last taxation year, and

(b) of the aggregate determined under paragraph (a), an amount equal to such part of the income of the new corporation for the year if no deduction were allowed under this section, section 65 or section 66 (minus any deductions allowed for the year by sections 112 and 113) as may reasonably be regarded as attributable to the production of petroleum or natural gas from wells, or the production of minerals from mines, situated on property in Canada from which the predecessor corporation had, immediately before the amalgamation, a right to take or remove petroleum or natural gas or a right to take or remove minerals;

and no amount in respect of expenses of the predecessor corporation included in the aggregate determined under paragraph (a) shall, where subsection 192(15) is being applied to determine for the purposes of paragraph (2)(gg) of this section the designated surplus of the predecessor corporation immediately before the amalgamation, be included in the amount or amounts deductible under any paragraph of subsection 192(15).

(7) Where there has been an amalgamation of two or more corporations after 1971, there may be deducted by the new corporation in computing its income for a taxation year the amount that would be deductible under subsection (6) in computing its income for the year if

(a) the reference therein to "Canadian exploration and development expenses" were

(7). New

read as a reference to “foreign exploration and development expenses”,

(b) the reference in subparagraph (a)(ii) thereof to “paragraph 66(1)(b)” were read as a reference to “paragraph 66(4)(b)”, and

(c) the reference in paragraph (b) thereof to “in Canada” were read as a reference to “outside Canada”.

Winding-up  
of wholly-  
owned  
Canadian  
corporation

88. Where a Canadian corporation (in this section referred to as the “subsidiary”) has been wound up after 1971 and all of the issued shares of the capital stock thereof were, immediately before the winding-up, owned by another Canadian corporation (in this section referred to as the “parent”), notwithstanding any other provisions of this Act the following rules apply:

88. New

(a) each property of the subsidiary that was distributed to the parent on the winding-up shall be deemed to have been disposed of by the subsidiary for proceeds equal to the cost amount to it of the property immediately before the winding-up;

(b) the shares of the capital stock of the subsidiary shall be deemed to have been disposed of by the parent on the winding-up for proceeds equal to the greater of

(i) the lesser of the paid-up capital limit of the subsidiary immediately before the winding-up and the amount determined under subparagraph (d)(i), and

(ii) the aggregate of amounts each of which is an amount in respect of any share of the capital stock of the subsidiary so disposed of by the parent on the winding-up, equal to the adjusted cost base to the parent of the share immediately before the winding-up;

(c) the cost to the parent of each property of the subsidiary distributed to the parent on the winding-up shall be deemed to be an amount equal to the cost amount to the subsidiary of the property immediately before the winding-up, plus, where the property was a capital property (other than depreciable property) of the subsidiary, the

amount determined under paragraph (d) in respect thereof;

(d) the amount determined under this paragraph in respect of each property that was a capital property (other than depreciable property) of the subsidiary is such portion of the amount, if any, by which the aggregate determined under subparagraph (b)(ii) exceeds

(i) the amount, if any, by which

(A) the aggregate of amounts each of which is an amount in respect of any property owned by the subsidiary immediately before the winding-up, equal to the cost amount to the subsidiary of the property immediately before the winding-up, plus the amount of any money of the subsidiary on hand immediately before the winding-up,

exceeds

(B) the aggregate of amounts each of which is the amount of any debt owing by the subsidiary, or of any other obligation of the subsidiary to pay any amount, that was outstanding immediately before the winding-up,

as is designated by the parent in respect of that capital property in its return of income under this Part for its taxation year in which the subsidiary was so wound up, except that

(ii) in no case shall the amount so designated in respect of any such capital property exceed the amount, if any, by which the fair market value of the property immediately before the winding-up exceeds the cost amount to the subsidiary of the property immediately before the winding-up, and

(iii) in no case shall the aggregate of amounts so designated in respect of all such capital properties exceed the amount, if any, by which the aggregate determined under subparagraph (b)(ii) exceeds the amount determined under subparagraph (i);

(e) the subsidiary shall be deemed to have paid and the parent shall be deemed to have received, immediately before the winding-up, a dividend on the shares of the capital stock of the subsidiary equal to the amount, if any, by which the amount determined under subparagraph (d)(i) exceeds the paid-up capital limit of the subsidiary immediately before the winding-up; and

(f) where property that was depreciable property of a prescribed class of the subsidiary has been distributed to the parent on the winding-up and the capital cost to the subsidiary of the property exceeds the amount deemed by paragraph (a) to be the subsidiary's proceeds of disposition thereof, for the purposes of sections 13 and 20 and any regulations made under paragraph 20(1)(a),

(i) notwithstanding paragraph (c) the capital cost to the parent of the property shall be deemed to be the amount that was the capital cost thereof to the subsidiary, and

(ii) the excess shall be deemed to have been allowed to the parent in respect of the property under regulations made under paragraph 20(1)(a) in computing income for taxation years before the acquisition by the parent of the property.

#### Definitions

"Canadian corporation"

89. (1) In this subdivision,

(a) "Canadian corporation" at any time means a corporation that was resident in Canada at that time and was

(i) incorporated in Canada, or

(ii) resident in Canada throughout the period commencing June 18, 1971 and ending at that time;

"Capital dividend account"

(b) "capital dividend account" of a corporation at any particular time means the amount, if any, by which the aggregate of

(i) 1/2 of the amount, if any, by which the aggregate of the capital gains of the corporation, for taxation years commencing after it last became a private corporation and ending after 1971 and before the

89. (1). New



particular time, exceeds the aggregate of its capital losses for those years, and (ii) all amounts each of which is an amount in respect of a dividend received by the corporation on a share of the capital stock of another corporation after 1971 and before the particular time, which amount was, by virtue of subsection 88(2), not included in computing the income of the corporation,

exceeds the aggregate of all capital dividends that became payable by the corporation before the particular time;

“Paid-up capital”

(c) “paid-up capital” in respect of a share of any class of the capital stock of a corporation at any particular time means an amount equal to the paid-up capital of the corporation at that time that is represented by the shares of the class to which that share belongs, divided by the number of issued shares of that class then outstanding;

“Paid-up capital deficiency”

(d) “paid-up capital deficiency” of a corporation at any particular time means the amount, if any, by which the aggregate of

(i) the amounts determined under subparagraphs (I)(v) and (vi) in respect of the corporation,

(ii) all amounts determined under subparagraphs (I)(vii) and (viii) in respect of the corporation at the particular time,

(iii) the paid-up capital at the particular time in respect of any shares of the capital stock of the corporation issued after 1971 that were received by a person as described in subsection 35(1), and

(iv) where subsection 85(1) or (2) has been applicable in respect of any disposition of property to the corporation before the particular time, the amount, if any, by which

(A) the amount by which any increase, by virtue of the disposition, in the paid-up capital of the corporation exceeds any increase, by virtue of the disposition, in the value of its assets (determined as though the value of any property so transferred were its

cost to the corporation for the purposes of this Part and as though this Part were read without reference to subsection 85(5)) less its liabilities,

exceeds

(B) the amount by which any increase, by virtue of the disposition, in the paid-up capital of the corporation exceeds any increase, by virtue of the disposition, in the value of its assets less its liabilities,

exceeds the aggregate of

(v) the tax equity of the corporation at the end of its 1971 taxation year,

(vi) all amounts determined under subparagraphs (i)(ii), (iii) and (iv) in respect of the corporation at the particular time,

(vii) all amounts each of which is an amount deemed by subsection 84(2), (3) or (4) to be a dividend paid before the particular time by the corporation on shares of any class, to the extent of the amount, if any, by which the paid-up capital in respect of the shares of that class at the time the dividend was paid exceeds the paid-up capital limit of the corporation at the time the dividend was paid,

(viii) all amounts each of which is an amount in respect of a reduction of the paid-up capital of the corporation after its 1971 taxation year and before the particular time, equal to the amount, if any, by which the amount of the reduction exceeds the aggregate of amounts paid by it to its shareholders on the reduction,

(ix) all business losses (within the meaning of this Act as it read in its application to the 1971 taxation year) sustained by the corporation in taxation years ending before 1972, to the extent that such

losses have been deducted under paragraph 111(1)(b) from the corporation's income for any taxation year ending after 1971 and before the particular time, and (x) all amounts each of which is an amount in respect of any purchase by the corporation before the particular time of any shares of its capital stock in respect of which tax under section 181 is payable by it, equal to the amount, if any, by which the amount described in paragraph 181(1)(a) in respect of the purchase exceeds the amount described in paragraph 181(1)(b) in respect thereof;

"Paid-up capital limit"

(e) "paid-up capital limit" of a corporation at any particular time means the amount, if any, by which the paid-up capital of the corporation at that time in respect of all of the shares of its capital stock exceeds the corporation's paid-up capital deficiency at that time;

"Private corporation"

(f) "private corporation" at any particular time means a corporation that, at the particular time, was resident in Canada, was not a public corporation, and was not controlled, directly or indirectly in any manner whatever, by one or more public corporations;

"Public corporation"

(g) "public corporation" at any particular time means a corporation that was resident in Canada at the particular time, if

(i) at the particular time, a class or classes of shares of the capital stock of the corporation were listed on a prescribed stock exchange in Canada,

(ii) at any time after June 18, 1971 and

(A) before the particular time, it elected in prescribed manner to be a public corporation, and at the time of the election it complied with prescribed conditions relating to the number of its shareholders, dispersal of ownership

of its shares, public trading of its shares and size of the corporation, or (B) before a day 30 days before the particular time, it was, by notice in writing to the corporation, designated by the Minister to be a public corporation, and at the time it was so designated it complied with the conditions referred to in clause (A),

unless subsequent to the election or designation, as the case may be, and before the particular time, it ceased to be a public corporation by virtue of subparagraph (iii), or

(iii) at any time after June 18, 1971 and before the particular time, it was a public corporation, unless after the time it last became a public corporation and

(A) before the particular time, it elected in prescribed manner not to be a public corporation, and at the time it so elected it complied with prescribed conditions relating to the number of its shareholders, dispersal of ownership of its shares and public trading of its shares, or

(B) before a day 30 days before the particular time, it was, by notice in writing to the corporation, designated by the Minister not to be a public corporation, and at the time it was so designated it complied with the conditions referred to in clause (A),

in which case it shall be deemed thereupon to have ceased to be a public corporation;



“Tax  
equity”

(h) “tax equity” of a corporation at the end of its 1971 taxation year means the amount, if any, by which the aggregate of all amounts each of which is

(i) an amount in respect of depreciable property of a prescribed class owned by the corporation immediately after that time, equal to the undepreciated capital cost thereof to the corporation at that time,

(ii) an amount in respect of any other depreciable property owned by the corporation at that time, equal to the amount by which

(A) the actual cost of the property to the corporation, or the amount at which it was deemed to have acquired the property under subsection 20(6) of this Act as it read in its application to the 1971 taxation year, as the case may be,

exceeds

(B) the aggregate of amounts in respect of the cost of the property that were deductible under paragraph 11(1)(a) of this Act as it so read in computing the income of the corporation for taxation years ending before 1971,

(iii) an amount in respect of any capital property (other than depreciable property) owned by the corporation at that time, equal to its cost to the corporation (determined without reference to the *Income Tax Application Rules, 1971*) minus any amounts in respect of the cost thereof deducted in computing the income of the corporation under this Part for any taxation year ending before 1972,

*Subsection 89(1)*

(iv) an amount in respect of property owned by the corporation and described in its inventory at that time equal to its value, at that time, for the purposes of computing the income of the corporation under Part I of this Act as it read in its application to the 1971 taxation year,

(v) the amount of any debt owing to the corporation or of any other right of the corporation to receive an amount, that was outstanding at that time, minus such portion thereof as was not but would have been, if the amount had been received by the corporation in its 1971 taxation year, included in computing its income for that year,

(vi) the amount of any money of the corporation on hand at that time, or

(vii) such part, if any, of

(A) the cost to the corporation of any property (other than property described in subparagraphs (i) to (v)) owned by the corporation at that time, or

(B) any expenditure incurred by the corporation (other than an expenditure to acquire property) before that time,

as was not deductible in computing the corporation's income for the 1971 or any previous taxation year for the purposes of Part I of this Act as it read in its application to that year, but would have been deductible in computing its income for the 1971 taxation year if this Act as it read in its application to that year had been read without reference to any restriction on the quantum of any deduction thereunder,

exceeds the aggregate of all amounts each of which is

(viii) the amount of any debt owing by the corporation or of any other obligation of the corporation to pay an amount, that was outstanding at that time, minus such part, if any, thereof as would be, if the amount were paid by the corporation in its 1972 taxation year, deductible in computing its income for its 1972 taxation year, or

(ix) the amount of any reserve deducted in computing the corporation's income for its 1971 taxation year under Part I of this Act as it read in its application to that year;

(i) "taxable Canadian corporation" means a corporation that

(i) was a Canadian corporation at the time any dividend in respect of which the expression is relevant was received or deemed to have been received, and

(ii) was not, by virtue of a statutory provision, exempt from tax under this Part for the taxation year of the corporation during which the dividend was received or deemed to have been received;

(j) "taxable dividend" means a dividend in respect of which the corporation paying the dividend has not elected in accordance with section 83 in respect of the full amount thereof;

(k) "tax-paid undistributed surplus on hand" of a corporation at any particular time means the amount, if any, by which the aggregate of

(i) the corporation's tax-paid undistributed income as of the end of 1971, computed in accordance with the provisions of this Act as it read in its application to the 1971 taxation year,

(ii) all amounts on which, before the particular time, tax has been paid by the corporation under Part IX, minus all amounts of that tax, and

"Taxable  
Canadian  
corporation"

"Taxable  
dividend"

"Tax-paid  
undistributed  
surplus on  
hand"

*Subsection 89(1)*

(iii) all amounts each of which is an amount in respect of a dividend received by the corporation on a share of any class of the capital stock of another corporation after 1971 and before the particular time, equal to the amount, if any, by which

(A) that proportion of such part of the whole dividend paid by the other corporation on all shares of that class at the time it paid the dividend so received by the corporation as was payable out of the other corporation's tax-paid undistributed surplus on hand, that the dividend so received by the corporation is of the whole dividend so paid by the other corporation,

exceeds

(B) 85/15 of the amount, if any, that the Minister was, before the particular time, required by subsection 196(2) to pay to the corporation in respect of the dividend so received by it,

exceeds the aggregate of such of the dividends that became payable by the corporation before the particular time as were payable out of the corporation's tax-paid undistributed surplus on hand; and

(I) "1971 capital surplus on hand" of a corporation at any particular time means the amount, if any, by which the aggregate of

(i) the tax equity of the corporation at the end of its 1971 taxation year,

(ii) all amounts each of which is an amount in respect of a capital property of the corporation owned by it on December 31, 1971 and disposed of by it after that date and before the particular time, equal to the amount, if any, by which the lesser of its fair market value on the day fixed by proclamation for the purposes of subdivision c and the corporation's proceeds of disposition thereof

"1971  
capital  
surplus  
on hand"



exceeds its actual cost to the corporation determined without reference to the *Income Tax Application Rules, 1971*,

(iii) all amounts each of which is an amount in respect of a capital property owned by it at the end of its 1971 taxation year and disposed of by the corporation before 1972, equal to the amount, if any, by which the corporation's proceeds of disposition thereof exceeds its actual cost to the corporation determined without reference to the *Income Tax Application Rules, 1971*, and

(iv) all amounts each of which is an amount in respect of a dividend received by the corporation on a share of the capital stock of another corporation after 1971 and before the particular time, which amount was, by virtue of subsection 83(1), not included in computing the income of the corporation by virtue of this subdivision, minus such portion, if any, of that amount as was payable out of the other corporation's tax-paid undistributed surplus on hand,

exceeds the aggregate of

(v) the paid-up capital of the corporation at the end of its 1971 taxation year in respect of all of the shares of its capital stock,

(vi) the amount that the corporation's undistributed income on hand (within the meaning assigned by this Act as it read in its application to the 1971 taxation year) would be at the end of its 1971 taxation year if

## Subsection 89(1)

(A) this Act as it so read were read without reference to subparagraph 82(1)(a)(iii) thereof, and

(B) references in paragraph 82(1)(a) (except clause (vii)(A)) thereof to "1917" were read as references to "1950",

(vii) all amounts each of which is an amount in respect of a capital property (other than depreciable property) of the corporation owned by it on December 31, 1971 and disposed of by it after that date and before the particular time, equal to the amount, if any, by which its actual cost to the corporation determined without reference to the *Income Tax Application Rules, 1971* exceeds the greater of the fair market value of the property on the day fixed by proclamation for the purposes of subdivision c and the corporation's proceeds of disposition thereof,

(viii) all amounts each of which is an amount in respect of a capital property (other than depreciable property) owned by it at the end of its 1971 taxation year and disposed of by it before 1972, equal to the amount, if any, by which its actual cost to the corporation determined without reference to the *Income Tax Application Rules, 1971* exceeds the corporation's proceeds of disposition thereof, and

(ix) all amounts each of which is an amount in respect of a dividend that became payable by the corporation before the particular time, equal to the portion, if any, thereof payable out of its 1971 capital surplus on hand.

## Section 89

1971  
capital  
surplus  
on hand  
of life  
insurance  
corporation

(2) Notwithstanding paragraph (1)(I), a life insurance corporation's 1971 capital surplus on hand at any particular time is the amount, if any, by which the aggregate of

(a) all amounts each of which is an amount in respect of any property disposed of by the corporation after 1968 and before 1972 that would, if the property had been disposed of after 1972, have been a capital property of the corporation, equal to the amount, if any, by which the proceeds of disposition of the property exceed the cost to the corporation thereof, and

(b) the amount determined under subparagraph (1)(I)(ii) in respect of the corporation at the particular time

exceeds the aggregate of

(c) all amounts each of which is an amount in respect of any property described in paragraph (a), equal to the amount, if any, by which the cost to the corporation of the property exceeds the proceeds of disposition thereof,

(d) the amount determined under subparagraph (1)(I)(vii) in respect of the corporation at the particular time, and

(e) all amounts each of which is an amount in respect of a dividend that became payable by the corporation before the particular time, equal to the portion, if any, thereof payable out of its 1971 capital surplus on hand.

Subdivision i —

Shareholders of corporations  
not resident in Canada

Dividends  
received  
from non-  
resident  
corporation

90. (1) In computing the income for a taxation year of a taxpayer resident in Canada, there shall be included any amounts received by the taxpayer in the year as, on account or in lieu of payment of, or in satisfaction of, dividends on a share owned by him of the capital stock of a corporation not resident in Canada.

(2). New

90. (1). New

## Section 90

Deduction permitted in respect of dividend from foreign affiliate

(2) In computing the income for a taxation year of a taxpayer resident in Canada, there may be deducted, in respect of any dividend received by him in the year on a share owned by him of the capital stock of any foreign affiliate of the taxpayer, the amount, if any, in respect of the dividend required by paragraph 92(1)(b) to be deducted in computing the adjusted cost base to him of the share.

(2). New

Deduction in respect of portion of dividend paid out of pre-acquisition surplus of foreign affiliate

(3) In computing the income for a taxation year of a corporation resident in Canada, there may be deducted, in respect of any dividend received by it in the year on a share owned by it of the capital stock of any foreign affiliate of the corporation, an amount equal to such portion of the dividend as is prescribed to have been paid out of the pre-acquisition surplus of that affiliate.

(3). New

Amounts to be included in respect of share in foreign affiliate

91. (1) Subject to subsection (2), in computing the income for a taxation year of a taxpayer resident in Canada, there shall be included, in respect of each share owned by the taxpayer of the capital stock of a foreign affiliate of the taxpayer,

91. (1). New

(a) the percentage of the foreign accrual property income of each foreign affiliate of the taxpayer, for each taxation year of the affiliate ending in the taxation year of the taxpayer, equal to that share's participating percentage in respect of the affiliate, determined at the end of that taxation year of the affiliate, and

(b) the percentage of any amount received by a foreign affiliate of the taxpayer, as, on account or in lieu of payment of, or in satisfaction of, a dividend from another foreign affiliate of the taxpayer during the taxation year of the taxpayer (except to the extent that that amount is prescribed to be



*Subsection 91(1)*

excluded), equal to that share's participating percentage in respect of the first-mentioned affiliate, determined at the time the amount was so received.

Where  
amount  
does not  
exceed  
\$500

(2) Where the aggregate of all amounts that would, but for this subsection, be included in computing a taxpayer's income for a taxation year by virtue of subsection (1), minus the aggregate of all amounts that would, but for this subsection, be deductible from the taxpayer's income for the year by virtue of subsection 113(3), does not exceed \$500, the amounts that would otherwise be included in computing the income of the taxpayer for the year by virtue of subsection (1) shall not be so included.

(2). New

Reserve  
where  
foreign  
exchange  
restriction

(3) Where an amount in respect of a share has been included in computing the income of a taxpayer for a taxation year by virtue of this section and the Minister is satisfied that, by reason of the operation of monetary or exchange restrictions imposed by the law of a country other than Canada, the inclusion of the whole amount with no deduction for a reserve in respect thereof would impose undue hardship on the taxpayer, there may be deducted in computing the taxpayer's income for the year such amount as a reserve in respect of the amount so included as the Minister deems reasonable in the circumstances.

(3). New

Reserve  
for pre-  
ceding  
year to  
be in-  
cluded

(4) In computing the income of a taxpayer for a taxation year, there shall be included each amount in respect of a share that was deducted under subsection (3) in computing his income for the immediately preceding year.

(4). New

Adjusted  
cost base  
of share in  
foreign  
affiliate

92. (1) In computing, at any particular time in a taxation year, the adjusted cost base to a taxpayer resident in Canada of any share owned by him of the capital stock of a foreign affiliate of the taxpayer,

92. (1). New

*Subsection 92(1)*

(a) there shall be added, in respect of any amount required by section 91 to be included in computing his income for the year or any preceding taxation year in respect of that share, the amount, if any, by which that amount exceeds the deductions allowed in respect of that amount under subsections 91(3) and 113(3); and

(b) there shall be deducted, in respect of such part of any amount in respect of a dividend received by him on the share before the particular time as was not deductible under subsection 90(3), an amount equal to the lesser of that part thereof and the amount, if any, by which

(i) the aggregate of amounts required by paragraph (a) to be added in computing the adjusted cost base to him of the share before the amount in respect of the dividend was so received by him,

exceeds

(ii) the aggregate of amounts required by this paragraph to be deducted in computing the adjusted cost base to him of the share before the amount in respect of the dividend was so received by him.

Deduction  
in com-  
puting  
adjusted  
cost base

(2) In computing, at any time in a taxation year,

(a) the adjusted cost base to a corporation resident in Canada (in this subsection referred to as an "owner") of any share of the capital stock of a foreign affiliate of the corporation, or

(b) the adjusted cost base to a foreign affiliate (in this subsection referred to as an "owner") of a person resident in Canada of any share of the capital stock of another foreign affiliate of that person,

there shall be deducted, in respect of any amount in respect of a dividend received on the share in the year before that time by the owner of the share, the amount, if any, by which

(2). New

*Subsection 92(2)*

(c) such portion of the amount so received as was deductible under subsection 90(3) in computing the income of the owner for the year or as would have been so deductible if the owner had been a corporation resident in Canada,

exceeds

(d) such portion of any income or profits tax paid by the owner to the government of a country other than Canada as may reasonably be regarded as having been paid in respect of the portion described in paragraph (c).

*Idem*

(3) In computing, at any time in a taxation year, the adjusted cost base to a corporation resident in Canada of any share of the capital stock of a foreign affiliate of the corporation, there shall be deducted an amount in respect of any dividend received on the share by the corporation before that time, equal to the deduction permitted by subsection 113(2) from the income of the corporation for the year for the purposes of computing its taxable income.

(3). New

*Election re disposition of share in foreign affiliate*

93. (1) Where at any time a taxpayer resident in Canada has so elected, in prescribed manner and within the prescribed time, in respect of,

93. (1). New

(a) where the taxpayer is a corporation, any share of the capital stock of a foreign affiliate of the taxpayer disposed of by it, and

(b) in any case, any share of the capital stock of a foreign affiliate of the taxpayer disposed of by another foreign affiliate of the taxpayer,

the following rules apply:

(c) for the purposes of determining the amount, if any, of the disposing corporation's capital gain from the disposition of the share, there shall be deducted, in computing the adjusted cost base to it of the share immediately before the disposition, the amount, if any, by which

(i) the aggregate of amounts required by paragraph 92(1)(a) to be added in computing the adjusted cost base to it of the share before the disposition,

exceeds

- (ii) the aggregate of amounts required by paragraph 92(1)(b) to be deducted in computing the adjusted cost base to it of the share before the disposition; and
- (d) for the purposes of computing the taxpayer's income for the taxation year in which the share was disposed of, the disposing corporation's capital gain, if any, from the disposition of the share shall, to the extent of the least of
  - (i) the amount designated by the taxpayer in his election,
  - (ii) the amount of such gain, and
  - (iii) such amount as is prescribed to be the underlying accumulated earnings in respect of the share,

be deemed to have been a dividend received by the disposing corporation on the share and not to have been a capital gain.

(2) Where

- (a) a corporation resident in Canada has disposed of a share of the capital stock of any foreign affiliate of the corporation, or
- (b) a foreign affiliate of a corporation resident in Canada has disposed of a share of the capital stock of another foreign affiliate of the corporation,

the amount of any capital loss of the disposing corporation from the disposition of the share shall be deemed to be the amount, if any, by which the amount of the capital loss therefrom otherwise determined exceeds the aggregate of all amounts in respect of exempt dividends received by the disposing corporation on the share at any time before the disposition.

(2). New

(3) For the purposes of subsection (2),

- (a) a dividend received by a corporation resident in Canada is an exempt dividend to the extent of the amount in respect of the dividend that is deductible from the income of the corporation by virtue of subsection 113(1); and
- (b) a dividend received by a foreign affiliate of a corporation resident in Canada from

(3). New

Loss  
limitation  
on disposi-  
tion of  
share

Exempt  
dividends



another foreign affiliate of that corporation is an exempt dividend to the extent of the amount, if any, by which the portion of the dividend that was not prescribed to have been paid out of the pre-acquisition surplus of that other affiliate exceeds such portion of any income or profits tax paid by the first-mentioned affiliate as may reasonably be regarded as having been paid in respect of that portion of the dividend.

Application  
of certain  
provisions  
to trusts not  
resident in  
Canada

94. For the purposes of subsection 91(1), section 95 and subsection 113(3),

(a) an *inter vivos* trust that is not resident in Canada shall be deemed to be a corporation, having a capital stock of a single class divided into 100 issued shares each of which has full voting rights under all circumstances; and

(b) each beneficiary under the trust shall be deemed to own, at any time, a number of the issued shares described in paragraph (a) that is equal to the greater of

(i) that proportion of 100 that

(A) the fair market value at that time of his capital interest in the trust

is of

(B) the fair market value at that time of all capital interests in the trust, and

(ii) that proportion of 100 that

(A) the fair market value at that time of his income interest in the trust

is of

(B) the fair market value at that time of all income interests in the trust, (such fair market values being determined in each case as the amount that, having regard to all the circumstances including the terms and conditions of the trust arrangement, may reasonably be considered to be the fair market value of the interest or interests, as the case may be).

94. New

## Definitions

"Foreign  
accrual  
property  
income"  
of foreign  
affiliate

95. (1) In this subdivision,

(a) "foreign accrual property income" of a foreign affiliate of a taxpayer, for any taxation year of the affiliate, means the amount, if any, by which the aggregate of

(i) the affiliate's incomes for the year from property (other than dividends received by it from another foreign affiliate of the taxpayer or interest that would, by virtue of paragraph 81(1)(m), not be included in computing the income of the affiliate if it were resident in Canada) and from businesses other than active businesses, and

(ii) the affiliate's taxable capital gains for the year from dispositions of property (other than tangible property used exclusively for the purpose of gaining or producing income from an active business carried on by it),

exceeds the aggregate of

(iii) the affiliate's losses for the year from property and from businesses other than active businesses, and

(iv) the affiliate's allowable capital losses for the year from dispositions of property (other than tangible property used exclusively for the purpose of gaining or producing income from an active business carried on by it);

(b) "foreign affiliate", at any time, of a taxpayer resident of Canada means a corporation (other than a corporation resident in Canada)

(i) that was, at that time, controlled, directly or indirectly in any manner whatever, by

(A) the taxpayer, or

(B) the taxpayer and other taxpayers with whom the taxpayer was not dealing at arm's length,

95. (1). New

"Foreign  
affiliate"

(ii) in which, at that time, the aggregate of the voting percentage of the taxpayer and the voting percentages of other taxpayers resident in Canada with whom the taxpayer was not dealing at arm's length was not less than 25%,

(iii) in which, at that time, the aggregate of the equity percentage of the taxpayer and the equity percentages of other taxpayers resident in Canada with whom the taxpayer was not dealing at arm's length was not less than 50%, or

(iv) that, at that time, would be a corporation described in subparagraph (ii) if the reference in that subparagraph to "25%" were read as a reference to "10%", and in respect of which the taxpayer has, in prescribed manner and within a prescribed time, elected to have the corporation regarded as a foreign affiliate of the taxpayer;

"Participating percentage" of share in foreign affiliate

(c) "participating percentage" of a particular share owned by a taxpayer of the capital stock of a corporation in respect of any particular foreign affiliate of the taxpayer means the percentage that the taxpayer's equity percentage in the affiliate would be on the assumption that he owned no shares other than the particular share, except that

(i) in no case shall that assumption be made for the purpose of determining whether or not a corporation is a foreign affiliate of the taxpayer, and

(ii) where

(A) the aggregate of such of the participating percentages of particular shares owned by the taxpayer as are participating percentages in respect of the particular foreign affiliate,

exceeds

(B) the taxpayer's equity percentage in the particular foreign affiliate,

each such particular share's participating percentage in respect of the particular foreign affiliate shall be deemed to be that proportion of the share's participating percentage in the affiliate otherwise determined under this paragraph that the percentage determined under clause (B) is of the aggregate determined under clause (A); and

"Taxation year"

(d) "taxation year" in relation to a foreign affiliate of a taxpayer means the period for which the accounts of the business of the foreign affiliate have been ordinarily made up, but no such period may exceed 53 weeks.

Computation of taxable capital gains and allowable capital losses of foreign affiliate

(2) For the purposes of paragraph (1)(a), each taxable capital gain of a foreign affiliate of a taxpayer and each allowable capital loss of a foreign affiliate of a taxpayer shall be computed in accordance with the provisions of subdivision c as though the foreign affiliate were resident in Canada, except that in computing any such gain or loss from the disposition of property owned by the affiliate at the time it last became a foreign affiliate of the taxpayer, there shall not be included such portion of the gain or loss, as the case may be, as may reasonably be considered to have accrued before that time.

(2). New

Affiliates deemed not to deal at arm's length

(3) For the purposes of paragraph (1)(b), a foreign affiliate of a taxpayer shall be deemed not to deal with the taxpayer or with any other foreign affiliate of the taxpayer at arm's length.

(3). New



## Section 95

Meaning of certain expressions defined in ss. (1)

(4) For the purposes of subsection (1),  
(a) the “equity percentage”, in any particular corporation, of a taxpayer resident in Canada is the aggregate of

- (i) the taxpayer’s direct equity percentage in the particular corporation, and
- (ii) all percentages each of which is a percentage in respect of any foreign affiliate of the taxpayer (other than the particular corporation), equal to the product obtained when the taxpayer’s equity percentage in that affiliate is multiplied by that affiliate’s direct equity percentage in the particular corporation; and

(b) the “voting percentage”, in any particular corporation, of a taxpayer resident in Canada is the aggregate of

- (i) the taxpayer’s direct voting percentage in the particular corporation, and
- (ii) all percentages each of which is a percentage in respect of any foreign affiliate of the taxpayer (other than the particular corporation), equal to the product obtained when the taxpayer’s voting percentage in that affiliate is multiplied by that affiliate’s direct voting percentage in the particular corporation.

(4). New

Meaning of certain expressions defined in ss. (4)

(5) For the purposes of subsection (4),  
(a) the “direct equity percentage” of any person in a corporation is the percentage determined by the following rules:

- (i) for each class of the issued shares of the capital stock of the corporation, determine the proportion of 100 that the number of shares of that class owned by that person is of the total number of issued shares of that class, and

(5). New

(ii) select the proportion determined under subparagraph (i) for that person in respect of the corporation that is not less than any other proportion so determined for that person in respect of the corporation,

and the proportion selected under subparagraph (ii), when expressed as a percentage, is that person's direct equity percentage in the corporation; and

(b) the "direct voting percentage" of any person in a corporation is the number, expressed as a percentage, equal to that proportion of 100 that the number of issued shares (having full voting rights under all circumstances) of the capital stock of the corporation owned by that person is of the total number of issued shares (having full voting rights under all circumstances) of the capital stock of the corporation.

(6) For the purposes of this section, shares of different classes shall be deemed to be shares of the same class if they are identical in respect of all rights and obligations attaching thereto except the right to vote at meetings of shareholders.

(6). New

(7) For the purposes of this subdivision,  
(a) an income bond or income debenture issued by a foreign affiliate of a taxpayer shall be deemed to be a share of the capital stock of the affiliate unless any interest or other similar periodic amount paid by the affiliate on or in respect of the bond or debenture was, under the laws of the country in which the affiliate was resident, deductible in computing the amount for the year on which the affiliate was liable to pay income or profits tax imposed by the government of that country;

(7). New

(b) in determining the direct equity percentage of any person in a corporation, where by virtue of paragraph (a) a class of bonds or debentures of the corporation constitutes a class of shares of the capital stock thereof, the proportion determined under subparagraph (5)(a)(i) for that class

When  
shares  
deemed to  
be of same  
class

Income  
bonds or  
debentures  
issued by  
foreign  
affiliate

shall be deemed to be the proportion that would be determined thereunder if the references therein to "the number of" and "the total number of" were read as references to "the aggregate of the principal amounts of"; and

(c) where any person has a right under a contract, in equity or otherwise, either immediately or in the future and either absolutely or contingently, to, or to acquire, shares of the capital stock of a corporation, those shares shall, if one of the main reasons for the existence of the right may reasonably be considered to be the reduction or postponement of the amount of taxes that would otherwise be payable under this Act, be deemed to be owned by that person.

#### Subdivision j — Partnerships and their Members

96. (1) Where a taxpayer is a member of a partnership, his income, net capital loss, non-capital loss and restricted farm loss, if any, for a taxation year, or his taxable income earned in Canada for a taxation year, as the case may be, shall be computed as if

(a) the partnership were a separate person resident in Canada;

(b) the taxation year of the partnership were its fiscal period;

(c) each partnership activity (including the ownership of property) were carried on by the partnership as a separate person, and a computation were made of the amount of

(i) each taxable capital gain and allowable capital loss of the partnership from the disposition of property, and

96. (1). New

(ii) each income and loss of the partnership from each other source or from sources in a particular place,

for each taxation year of the partnership;

(d) each income or loss of the partnership for a taxation year were computed as if no deduction were permitted by subsection 65(1), section 66 or the provisions of the *Income Tax Application Rules, 1971* relating to exploration and development expenses;

(e) each gain of the partnership from the disposition of land used in a farming business of the partnership were computed as if this Act were read without reference to paragraph 53(1)(i);

(f) the amount of the income of the partnership for a taxation year from any source or from sources in a particular place were the income of the taxpayer from that source or from sources in that particular place, as the case may be, for the taxation year of the taxpayer in which the partnership's taxation year ends, to the extent of the taxpayer's share thereof; and

(g) the amount of the loss of the partnership for a taxation year from any source or from sources in a particular place were the loss of the taxpayer from that source or from sources in that particular place, as the case may be, for the taxation year of the taxpayer in which the partnership's taxation year ends, to the extent of the taxpayer's share thereof.

Construc-  
tion

(2) The provisions of this subdivision shall be read and construed as if each of the assumptions in paragraphs (1)(a) to (g) were made.

(2). New



Contribution of property to partnership

97. (1) Where at any time a partnership has acquired property from a taxpayer who was, immediately after that time, a member of the partnership, the partnership shall be deemed to have acquired the property at an amount equal to its fair market value at that time and the taxpayer shall be deemed to have disposed of the property for proceeds equal to that fair market value.

Rules applicable where election by partners

(2) Notwithstanding any other provision of this Act, where at any time a Canadian partnership has acquired property from a taxpayer who was, immediately after that time, a member of the partnership, if all the persons who immediately after that time were members of the partnership have jointly so elected in respect of the property in prescribed form and within prescribed time, the following rules apply:

(a) the amount that all of those persons have agreed upon in their election in respect of the property shall be deemed to be the taxpayer's proceeds of disposition of the property and the amount for which the partnership acquired the property;

(b) the amount, if any, by which the amount so elected in respect of the property exceeds the amount of the consideration (other than an interest in the partnership) received by the taxpayer for the property shall

(i) if immediately before that time the taxpayer was a member of the partnership, be included in computing the adjusted cost base to him of his interest in the partnership, and

(ii) in any other case, be included in computing the cost to him of his interest in the partnership;

(c) where the amount that all of those persons have agreed upon in their election in respect of the property is greater than the fair market value, at the time of the disposition, of the property so disposed of, the amount so agreed upon shall, irrespective of the amount actually so agreed upon, be deemed to be an amount equal to that fair market value; and

97. (1). New

(2). New

## Subsection 97(2)

(d) notwithstanding paragraph (c), where the amount that all of those persons have agreed upon in their election in respect of the property is less than the amount of the consideration (other than an interest in the partnership) received by the taxpayer for the property, the amount so agreed upon shall, irrespective of the amount so agreed upon, be deemed to be an amount equal to the amount of that consideration.

(3) Where at any time a partnership has acquired property from a taxpayer who was, immediately after the acquisition, a member of the partnership, and

(3). New

(a) the taxpayer's share, as a member of the partnership, of the income of the partnership from any source for the taxation year of the partnership in which the property was acquired exceeds  $\frac{1}{2}$  of the income of the partnership from that source for the year, or  
 (b) the amount that would, if the partnership were wound up immediately after the acquisition, be paid to the taxpayer as a member of the partnership (otherwise than as his share of any income of the partnership) exceeds  $\frac{1}{2}$  of the aggregate of all such amounts that would be so paid to all persons as members of the partnership,

the loss, if any, of the taxpayer arising from the acquisition of the property by the partnership

(c) is, notwithstanding any other provision of this Act, not deductible in computing the income, net capital loss, non-capital loss or restricted farm loss, if any, of the taxpayer for any taxation year, and

(d) shall,

(i) where immediately before that time the taxpayer was a member of the partnership, be included in computing the adjusted cost base to him of his interest in the partnership, and

(ii) in any other case, be included in computing the cost to him of his interest in the partnership.

Where property acquired from majority interest partner

(4). New

Where  
capital cost  
to partner  
exceeds  
proceeds  
of dis-  
position

(4) Where subsection (2) has been applicable in respect of the acquisition of any depreciable property by a partnership from a taxpayer who was, immediately after he disposed of the property, a member of the partnership and the capital cost to the taxpayer of the property exceeds his proceeds of the disposition, for the purposes of sections 13 and 20 and any regulations made under paragraph 20(1)(a)

(a) the capital cost to the partnership of the property shall be deemed to be the amount that was the capital cost thereof to the taxpayer, and

(b) the excess shall be deemed to have been allowed to the partnership in respect of the property under regulations made under paragraph 20(1)(a) in computing income for taxation years before the acquisition by the partnership of the property.

Disposition  
of partner-  
ship  
property

98. (1) For the purposes of this Act, notwithstanding that a partnership would, but for this subsection, be regarded as having ceased to exist,

(a) until such time as all of the partnership property and any property substituted therefor has been distributed to the persons entitled by law to receive it, the partnership shall be deemed not to have ceased to exist, and each person who was a partner shall be deemed not to have ceased to be a partner, and

(b) the right of each such person to share in such property shall be deemed to be an interest in the partnership.

98. (1). New

Deemed  
proceeds

(2) Where at any time a partnership has disposed of property to a taxpayer who was, immediately before that time, a member of the partnership, the partnership shall be deemed to have disposed of the property for proceeds equal to its fair market value at that time and the taxpayer shall be deemed to have acquired the property at an amount equal to that fair market value.

(2). New

## (3). New

Rules  
applicable  
where  
partnership  
ceases to  
exist

(3) Notwithstanding any other provision of this Act, where at any particular time a Canadian partnership has ceased to exist and all of the partnership property has been distributed to persons who were members of the partnership immediately before that time so that immediately after that time each such person has, in each such property, an undivided interest that, when expressed as a percentage (in this subsection referred to as that person's "percentage") of all of the undivided interests in the property, is equal to his undivided interest, when so expressed, in each other such property, if each such person has jointly so elected in respect of the property in prescribed form and within prescribed time, the following rules apply:

(a) each such person's proceeds of the disposition of his interest in the partnership shall be deemed to be an amount equal to the greater of

(i) the adjusted cost base to him, immediately before the particular time, of his interest in the partnership, and

(ii) the amount of any money received by him on the cessation of the partnership's existence, plus his percentage of the aggregate of amounts each of which is the cost amount to the partnership of each such property immediately before its distribution;

(b) the cost to each such person of his undivided interest in each such property shall be deemed to be an amount equal to

(i) his percentage of the cost amount to the partnership of the property immediately before its distribution

plus

(ii) where the amount determined under subparagraph (a)(i) exceeds the amount determined under subparagraph (a)(ii), the amount determined under paragraph (c) or (d), as the case may be, in respect of his undivided interest in the property;



*Subsection 98(3)*

(c) the amount determined under this paragraph in respect of each such person's undivided interest in each such property that was a capital property (other than depreciable property) of the partnership is such portion of the excess, if any, described in subparagraph (b)(ii) as is designated by him in respect of the property, except that

(i) in no case shall the amount so designated in respect of his undivided interest in any such property exceed the amount, if any, by which his percentage of the fair market value of the property immediately after its distribution exceeds his percentage of the cost amount to the partnership of the property immediately before its distribution, and

(ii) in no case shall the aggregate of amounts so designated in respect of his undivided interests in all such capital properties (other than depreciable property) exceed the excess, if any, described in subparagraph (b)(ii);

(d) the amount determined under this paragraph in respect of each such person's undivided interest in each such property that was depreciable property or a property other than a capital property of the partnership is such portion of

(i) the amount, if any, by which the excess, if any, described in subparagraph (b)(ii) exceeds the aggregate of amounts designated by him under paragraph (c) in respect of his undivided interests in all such capital properties (other than depreciable property)

as is designated by him in respect of the property, except that

(ii) in no case shall the amount so designated in respect of his undivided interest in any such property exceed the amount, if any, by which his percentage of the fair market value of the property immediately after its distribution exceeds his percentage of the cost amount to the

*Subsection 98(3)*

partnership of the property immediately before its distribution, and

(iii) in no case shall the aggregate of amounts so designated in respect of his undivided interests in all such properties that are depreciable property or properties other than capital properties, exceed  $\frac{1}{2}$  of the amount determined under subparagraph (i) in respect of him; and

(e) where the property so distributed by the partnership was depreciable property of the partnership of a prescribed class and any such person's percentage of the amount that was the capital cost to the partnership of that property exceeds the amount determined under paragraph (b) to be the cost to him of his undivided interest in the property, for the purposes of sections 13 and 20 and any regulations made under paragraph 20(1)(a)

(i) the capital cost to him of his undivided interest in the property shall be deemed to be his percentage of the amount that was the capital cost to the partnership of the property, and

(ii) the excess shall be deemed to have been allowed to him in respect of the property under regulations made under paragraph 20(1)(a) in computing income for taxation years before the acquisition by him of the undivided interest.

Application  
of ss. (3)

(4) Subsection (3) is not applicable in any case in which subsection (5) or subsection 85(3) is applicable.

(4). New

Where  
partnership  
business  
carried on  
as sole  
proprietor-  
ship

(5) Where at any particular time a Canadian partnership has ceased to exist and within 3 months after the particular time one, but not more than one, of the persons who were, immediately before the particular time, members of the partnership (which person is hereafter in this subsection referred to as the

(5). New

“proprietor”) carries on by way of a sole proprietorship the business that was the business of the partnership and continues to use, in the course of the business, any property that was, immediately before the particular time, partnership property and that was received by him as proceeds of disposition of his interest in the partnership, the following rules apply:

(a) the proprietor’s proceeds of disposition of his interest in the partnership shall be deemed to be an amount equal to the greater of

(i) the adjusted cost base to him, immediately before the particular time, of his interest in the partnership, and

(ii) the aggregate of

(A) the cost amount to the partnership, immediately before the particular time, of each such property so received by him, and

(B) the amount of any other proceeds of the disposition of his interest in the partnership received by him;

(b) the cost to the proprietor of each such property so received by him shall be deemed to be an amount equal to

(i) the cost amount to the partnership of the property immediately before that time,

plus

(ii) where the amount determined under subparagraph (a)(i) exceeds the amount determined under subparagraph (a)(ii), the amount determined under paragraph (c) or (d), as the case may be, in respect of the property;

(c) the amount determined under this paragraph in respect of each such property so received by him that is a capital property (other than depreciable property) of the proprietor is such portion of the excess, if any, described in subparagraph (b)(ii) as is designated by him in respect of the property, except that

(i) in no case shall the amount so designated in respect of any such property

*Subsection 98(5)*

exceed the amount, if any, by which the fair market value of the property immediately after the particular time exceeds the cost amount to the partnership of the property immediately before that time, and

(ii) in no case shall the aggregate of amounts so designated in respect of all such capital properties (other than depreciable property) exceed the excess, if any, described in subparagraph (b)(ii);

(d) the amount determined under this paragraph in respect of each such property so received by him that is depreciable property or a property other than a capital property of the proprietor is such portion of

(i) the amount, if any, by which the excess, if any, described in subparagraph (b)(ii) exceeds the aggregate of amounts designated by him under paragraph (c) in respect of all capital properties (other than depreciable property)

as is designated by him in respect of the property, except that

(ii) in no case shall the amount so designated in respect of any such property exceed the amount, if any, by which the fair market value of the property immediately after the particular time exceeds the cost amount to the partnership of the property immediately before that time, and

(iii) in no case shall the aggregate of amounts so designated in respect of all such properties of the proprietor that are depreciable property or properties other than capital properties, exceed  $1/2$  of the amount determined under subparagraph

(i) in respect of the proprietor; and

(e) where any such property so received by him was depreciable property of a prescribed class of the partnership and the amount that was the capital cost to the partnership of that property exceeds the amount determined under paragraph (b) to be the cost to the proprietor of the property, for the purposes of sections 13 and 20 and any regulations made under paragraph 20(1)(a)



## Subsection 98(5)

- (i) the capital cost to the proprietor of the property shall be deemed to be the amount that was the capital cost to the partnership of the property, and
- (ii) the excess shall be deemed to have been allowed to the proprietor in respect of the property under regulations made under paragraph 20(1)(a) in computing income for taxation years before the acquisition by him of the property.

Continuation of predecessor partnership by new partnership

(6) Where a Canadian partnership (in this subsection referred to as the “predecessor partnership”) has ceased to exist at any particular time and, before that time, all of the property of the predecessor partnership has been transferred to another Canadian partnership (hereinafter referred to as the “new partnership”) the only members of which were members of the predecessor partnership, the new partnership shall be deemed to be a continuation of the predecessor partnership and any member’s partnership interest in the new partnership shall be deemed to be a continuation of his partnership interest in the predecessor partnership.

(6). New

Fiscal period of terminated partnership

99. (1) Except as provided in subsection (2), where, at any time in a fiscal period of a partnership, the partnership would, but for subsection 98(1) have ceased to exist, the fiscal period shall be deemed to have ended immediately before that time.

99. (1). New

Fiscal period for individual member of terminated partnership

(2) Where an individual was a member of a partnership that, at any time in a fiscal period of the partnership, would, but for subsection 98(1), have ceased to exist, for the purposes of computing the individual’s income for a taxation year the partnership’s fiscal period may, if the individual so elects, be deemed to have ended immediately before the time when the fiscal period of the partnership would have ended if the partnership had not so ceased to exist.

(2). Subsection 15(2), modified

Validity of election

(3) An election under subsection (2) is not valid unless the individual, at the time when the fiscal period of the partnership would, if the election were valid, be deemed to have ended, was resident in Canada.

(3). Subsection 15(4), modified

## Section 99

Idem

(4) An election under subsection (2) is not valid if, for the individual's taxation year in which a fiscal period of the partnership would not, if the election were valid, be deemed to have ended but in which it would otherwise have ended, the individual elects to have applicable the rules set forth in the *Income Tax Application Rules, 1971* that apply when two or more fiscal periods of a partnership end in the same taxation year.

(4). Subsection 15(5), modified

Disposition  
of an  
interest in  
a partner-  
ship

**100.** (1) Notwithstanding paragraph 38 (a), a taxpayer's taxable capital gain for a taxation year from the disposition of an interest in a partnership to any person exempt from tax under section 149 shall be deemed to be

**100.** (1). New

(a)  $1/2$  of such portion of his capital gain for the year therefrom as may reasonably be regarded as attributable to increases in the value of any partnership property of the partnership that is capital property other than depreciable property,

plus

(b) the whole of the remaining portion of such capital gain.

Gain from  
disposition  
of interest  
in partner-  
ship

(2) In computing a taxpayer's gain for a taxation year from the disposition of an interest in a partnership, there shall be included, in addition to the amount thereof determined under subsection 40(1), the amount, if any, by which

(2). New

(a) all amounts required by subsection 53(2) to be deducted in computing the adjusted cost base to the taxpayer, immediately before the disposition, of the interest in the partnership,

exceeds

(b) the aggregate of the cost to the taxpayer of the interest in the partnership and all amounts required by subsection 53(1) to be added in computing the adjusted cost base to him, immediately before the disposition, of that interest.

Disposition  
of land  
used in  
farming  
business  
of part-  
nership

101. Where a taxpayer was a member of a partnership at the end of a taxation year of the partnership in which the partnership disposed of land used in a farming business of the partnership, there may be deducted in computing the taxpayer's income for his taxation year in which the taxation year of the partnership ended,  $1/2$  of the aggregate of amounts each of which is an amount in respect of that taxation year of the taxpayer or any previous taxation year of the taxpayer ending after 1971, equal to the taxpayer's loss, if any, for the year from the farming business, to the extent that such loss

(a) was, by virtue of section 31, not deductible in computing the taxpayer's income for the year,

(b) was not deductible for the purpose of computing the taxpayer's taxable income for his taxation year in which the partnership's taxation year in which the land was disposed of ended, or for any previous taxation year of the taxpayer,

(c) did not exceed that proportion of the aggregate of

(i) taxes (other than income or profits taxes or taxes imposed by reference to the transfer of the property) paid by the partnership in its taxation year ending in the year or payable by it in respect of that taxation year to a province or a Canadian municipality in respect of the property, and

(ii) interest paid by the partnership in its taxation year ending in the year or payable by it in respect of that taxation year, pursuant to a legal obligation to pay interest on borrowed money used to acquire the property or on any amount as consideration payable for the property, (to the extent that such taxes and interest were included in computing the loss of the partnership for that taxation year from the farming business), that

101. New

(iii) the taxpayer's loss from the farming business for the year

is of

(iv) the partnership's loss from the farming business for its taxation year ending in the year, and

(d) did not exceed the remainder obtained when

(i) the aggregate of each of the taxpayer's losses from the farming business for taxation years preceding the year (to the extent that such losses are included in computing the amount determined under this subsection in respect of the taxpayer)

is deducted from

(ii) 2 times the amount of the taxpayer's taxable capital gain from the disposition of the land.

"Canadian partnership" defined

102. In this subdivision, "Canadian partnership" means a partnership all of the members of which were, at any time in respect of which the expression is relevant, resident in Canada.

102. New

Agreement to share income, etc., so as to reduce or postpone tax otherwise payable

103. (1) Where the members of a partnership have agreed to share, in a specified proportion, any income or loss of the partnership from any source or from sources in a particular place, as the case may be, or any other amount in respect of any activity of the partnership that is relevant to the computation of the income or taxable income of any of the members thereof, and the principal reason for the agreement may reasonably be considered to be the reduction or postponement of the tax that might otherwise have been or become payable under this Act, the share of each member of the partnership in the income or loss, as the case may be, or in that other amount, is the amount that is reasonable having regard to all the circumstances including the proportions in which the members have agreed to share profits and losses of the partnership from other sources or from sources in other places.

103. (1). New



## Section 103

Meaning  
of "losses"  
in ss. (1)

(2) For the purposes of this section, the word "losses" when used in the expression "profits and losses" means losses determined without reference to other provisions of this Act.

(2). New

Subdivision k —  
Trusts and their Beneficiaries

Reference  
to trust  
or estate

**104.** (1) In this Act, a reference to a trust or estate (in this subdivision referred to as a "trust") shall be read as a reference to the trustee or the executor, administrator, heir or other legal representative having ownership or control of the trust property.

**104.** (1). Subsection 63(1), modified

Taxed as  
individual

(2) A trust shall, for the purposes of this Act, and without affecting the liability of the trustee or legal representative for his own income tax, be deemed to be in respect of the trust property an individual; but where there is more than one trust and

(2). Subsection 63(2), modified

(a) substantially all of the property of the various trusts has been received from one person, and

(b) the various trusts are conditioned so that the income thereof accrues or will ultimately accrue to the same beneficiary, or group or class of beneficiaries,

such of the trustees as the Minister may designate shall, for the purposes of this Act, be deemed to be in respect of all the trusts an individual whose property is the property of all the trusts and whose income is the income of all the trusts.

Deductions  
not per-  
mitted

(3) No deduction may be made under section 109 or paragraph 110(1)(d) from the income of a trust.

(3). Subsection 63(3), modified

Deemed  
disposition  
of property  
by a trust

(4) Every trust shall, on each of the following days, be deemed to have disposed of each capital property of the trust, other than depreciable property, for proceeds equal to its fair market value on that day, and to have reacquired such property immediately thereafter for an amount equal to that fair market value; and for the purposes of this Act those days are:

(4). New

*Subsection 104(4)*

(a) where the trust is a trust created by a taxpayer, whether during his lifetime or by his will, under which

(i) his spouse is entitled to receive all of the income of the trust (other than taxable capital gains) that arises before the spouse's death, and

(ii) no person except the spouse may, before the spouse's death, receive or otherwise obtain the use of any of the income or capital of the trust,

the day on which the spouse dies;

(b) the day that is 21 years after the latest of

(i) January 1, 1972,

(ii) the day on which the trust was created, and

(iii) where applicable, the day referred to in paragraph (a); and

(c) the day that is 21 years after any day that is, by virtue of this subsection, a day on which the trust is deemed to have disposed of each such property.

(5) Every trust shall, on each day described in subsection (4), be deemed to have disposed of all depreciable property of a prescribed class of the trust for proceeds equal to,

(a) where the fair market value of that property on that day exceeds the undepreciated capital cost thereof to the trust on that day, the amount of that undepreciated capital cost plus 1/2 of the amount of the excess, and

(b) in any other case, the fair market value of that property on that day plus 1/2 of the amount, if any, by which the undepreciated capital cost thereof to the trust on that day exceeds that fair market value.

(5). New

(6) For the purposes of this Part, there may be deducted in computing the income of a trust for a taxation year such part of the amount that would, but for this subsection and subsection (12), be its income for the year as was payable in the year to a beneficiary.

(6). Subsection 63(4), modified

(7) No deduction may be made under subsection (6) in computing the income for a taxation year of a trust in respect of such part of an amount that would otherwise be its income for the year as was payable in the year to a person who, at the time such part of that

(7). Subsection 63(4a), modified

Idem

Deduction in computing income of trust

Non-resident beneficiary

## Subsection 104(7)

amount became so payable, was not resident in Canada, unless, at that time, the trust was resident in Canada.

Limitation  
on deduc-  
tion

(8) No deduction may be made under subsection (16) in computing the income for a taxation year of an *inter vivos* trust that had income for the year from a business carried on by it in Canada, in respect of such part of an amount that would, but for subsections (6) and (12), be its income for the year as was payable in the year to a person who, at the time the amount became so payable, was

- (a) a non-resident person;
- (b) a non-resident-owned investment corporation; or
- (c) a trust resident in Canada other than
  - (i) a testamentary trust, or
  - (ii) a trust that throughout the period commencing on April 26, 1965 and ending at the time the amount became so payable, was a beneficiary under the trust by whom the amount became so payable, which latter-mentioned trust was throughout such period carrying on a business in Canada.

(8). Subsection 63(4b), modified

Idem

(9) No deduction may be made under subsection (6) in computing the income for a taxation year of a trust, in respect of any amount that is deemed by subsection (21) to be a taxable capital gain for the year of a non-resident person from the disposition of capital property.

(9). New

Where  
property  
owned for  
non-  
residents

(10) Where all the property of a trust is owned by the trustee for the benefit of non-resident persons or their unborn issue, in addition to the amount that may be deducted under subsection (6), there may be deducted in computing the income of the trust for a taxation year for the purposes of this Part, such part of the dividends and interest received by the trust in a year from a non-resident-owned investment corporation as are not deductible under subsection (6) in computing the income of the trust for the year.

(10). Subsection 63(5), modified

## Section 104

Dividend received from non-resident-owned investment corporation

(11) Where any part of the dividends received in a taxation year by a trust described in subsection (10) from a non-resident-owned investment corporation are deductible under subsection (10) in computing the income of the trust for the year, for the purposes of Part XIII the trust shall be deemed to have paid to a non-resident person on the last day of the year an amount equal to that part, as income of the non-resident person from the trust.

(11). New

Deduction of part of accumulating income included in preferred beneficiary's income

(12) For the purposes of this Part, there may be deducted in computing the income of a trust for a taxation year such part of its accumulating income for the year as was required by subsection (14) to be included in computing the income of a preferred beneficiary.

(12). New

Income payable to beneficiary

(13) Such part of the amount that would be the income of a trust for a taxation year if no deduction were made under subsection (6) or (12) or under regulations made under paragraph 20(1)(a) as was payable in the year to a beneficiary shall be included in computing the income of the person to whom it so became payable whether or not it was paid to him in that year and shall not be included in computing his income for a subsequent year in which it was paid.

(13). Subsection 63(6), modified

Election by trust and preferred beneficiary

(14) Where a trust and a preferred beneficiary thereunder jointly so elect in respect of a taxation year in prescribed manner and within prescribed time, such part of the accumulating income of the trust for the year as is designated in the election, not exceeding the preferred beneficiary's share therein, shall be included in computing the income of the preferred beneficiary for the year, and shall not be included in computing his income for a subsequent year in which it was paid.

(14). New

Preferred beneficiary's share

(15) The share of a particular preferred beneficiary under a trust in the accumulating income of the trust for a taxation year is,

(15). New

(a) where the trust is a trust described in paragraph (4)(a), an amount equal to,



(i) if the particular preferred beneficiary is the taxpayer's spouse, the trust's accumulating income for the year, and

(ii) in any other case, nil;

(b) in any case not referred to in paragraph (a), where the shares in which the accumulating income of the trust would be payable to the beneficiaries thereunder do not depend upon the exercise by any person of, or the failure by any person to exercise, any discretionary power,

(i) if at the end of the year the particular beneficiary was a member of a class of beneficiaries under the trust each of whom was entitled, as a member of that class, to share equally in any income of the trust, the portion of the trust's accumulating income for the year that may reasonably be regarded as having been earned for the benefit of beneficiaries of that class, divided by the number of beneficiaries (other than registered Canadian charitable organizations) of that class in existence at the end of the year, and

(ii) in any other case, the portion of the trust's accumulating income for the year that may reasonably be regarded as having been earned for the benefit of the particular preferred beneficiary;

(c) in any case not referred to in paragraph (a) or (b), where each beneficiary under the trust whose share of the accumulating income of the trust depends upon the exercise by any person of, or the failure by any person to exercise, any discretionary power, is a preferred beneficiary or a registered Canadian charitable organization, the portion of the trust's accumulating income for the year that may reasonably be regarded as having been earned for the benefit of the particular beneficiary, not exceeding the amount determined in prescribed manner to be his or its discretionary share of the trust's accumulating income for the year; and

(d) in any case not referred to in paragraph (a), (b) or (c), nil.

## Section 104

Capital  
cost  
allowance  
deduction

(16) A beneficiary under a trust may deduct from the amount that would otherwise be his income from the trust by virtue of subsection (13) or (14), as the case may be, such part of the amount that would otherwise be deductible from the income of the trust for the year under regulations made under paragraph 20(1)(a) as the trust may determine; and any amount deductible under this subsection for a taxation year shall be deducted from the amount that the trust would otherwise be able to deduct under those regulations but shall, for the purposes of section 13, be deemed to have been allowed to the trust under those regulations in computing its income for the year.

(16). Subsection 63(8), modified

Depletion  
allowance

(17) Where an amount is payable in a taxation year by a trust to a beneficiary under the trust, no part of that amount shall be deemed, for the purpose of subsections (6) and (13), to be payable out of an amount deductible in computing the income of the trust for the year under regulations made under subsection 65(1) except such part thereof as the trust designates as being so payable.

(17). Subsection 63(9), modified

Trust for  
infant

(18) Where the income of a trust for a taxation year or any part thereof was not payable in the year but was held in trust for an infant or minor whose right thereto had vested and the only reason that it was not payable in the year was that the beneficiary was an infant or minor, it shall, for the purpose of subsections (6) and (13), be considered to have been payable.

(18). Subsection 63(10), modified

Portion of  
taxable  
dividends  
deemed to  
be divid-  
ends  
received by  
beneficiary

(19) Such portion of  
(a) the aggregate of taxable dividends received by a trust in a taxation year on shares of the capital stock of taxable Canadian corporations,

(19). New

as

(b) may reasonably be considered (having regard to all the circumstances including the terms and conditions of the trust arrangement) to be part of the amount that, by virtue of subsection (13) or (14) or section 105, as the case may be, was included in computing the income for the year of a particular beneficiary under the trust, and

(c) was not designated by the trust in respect of any other beneficiary thereunder, shall, if so designated by the trust in respect of the particular beneficiary in the return of its income for the year under this Part, be deemed, for the purposes of section 82 and this subsection, to be a taxable dividend received by the particular beneficiary in the year from a taxable Canadian corporation, and not to be a taxable dividend received by the trust in the year from a taxable Canadian corporation.

Portion of  
non-taxable  
dividends  
not to be  
included  
in bene-  
ficiary's  
income

(20) Where an amount has, in a taxation year, become payable by a trust to a particular beneficiary thereunder, such portion thereof as

(a) may reasonably be considered (having regard to all the circumstances including the terms and conditions of the trust arrangement) to have derived from an amount received by the trust in the year as, on account or in lieu of payment of, or in satisfaction of, a dividend on a share of the capital stock of a corporation resident in Canada other than a taxable dividend, and

(b) was not designated by the trust in respect of any other beneficiary thereunder, shall, if so designated by the trust in respect of the particular beneficiary in its return of income for the year under this Part, not be included in computing the income of the particular beneficiary for the year.

(20). New

Portion of  
taxable  
capital  
gains  
deemed  
gain of  
beneficiary

(21) Such portion of

(a) the amount, if any, by which the aggregate of the taxable capital gains of a trust for a taxation year exceeds the aggregate of

(i) its allowable capital losses for the year,  
and

(21). New

(ii) the amount, if any, deductible under paragraph 111(1)(b) from its income for the year

as

(b) may reasonably be considered (having regard to all the circumstances including the terms and conditions of the trust arrangement) to be part of the amount that, by virtue of subsection (13) or (14) or section 105, as the case may be, was included in computing the income for the taxation year of a particular beneficiary under the trust, and

(c) was not designated by the trust in respect of any other beneficiary thereunder, shall, if so designated by the trust in respect of the particular beneficiary in the return of its income for the year under this Part, be deemed, for the purposes of sections 3 and 111, to be a taxable capital gain for the year of the particular beneficiary from the disposition of capital property.

(22) For the purpose of section 126, the following rules apply:

(a) such portion of the income of a trust for a taxation year (before making any deduction under subsection (6) or (12)) from sources in a foreign country or in a state, province or other political subdivision of a foreign country (which country or subdivision is referred to in this subsection as a "foreign jurisdiction") as

(i) may reasonably be considered (having regard to all the circumstances including the terms and conditions of the trust arrangement) to be part of the income that, by virtue of subsection (13) or (14), as the case may be, was included in computing the income for a taxation year of a particular beneficiary under the trust, and

(ii) was not designated by the trust in respect of any other beneficiary thereunder,

shall, if so designated by the trust in respect of the particular beneficiary in its return of income for the year

(22). Subsection 63(12), modified



under this Part, be deemed to be income of the particular beneficiary for the taxation year from sources in that foreign jurisdiction;

(b) a beneficiary under a trust shall be deemed to have paid as income tax for a taxation year, on the income that he is deemed by paragraph (a) to have for the year from sources in a foreign jurisdiction, to the government of that jurisdiction an amount equal to that proportion of the income or profits tax paid by the trust for the year to the government of that jurisdiction (except such portion of that tax as was deductible under subsection 20(11) or (12) in computing its income for the year) that

(i) such portion of the amount included in computing his income for the year by virtue of subsection (13) or subsection (14), as the case may be, as is deemed by paragraph (a) to be income for the year from sources in that jurisdiction,

is of

(ii) the income of the trust for the year from sources in that jurisdiction (before making any deduction under subsection (6) or (12));

(c) the income of a trust from sources in a foreign jurisdiction for a taxation year shall be deemed to be its actual income therefrom for the year minus the aggregate of the amounts deemed by paragraph (a) to be the income therefrom for the year of all beneficiaries under the trust; and

(d) a trust shall be deemed to have paid as income tax to the government of a foreign jurisdiction for a taxation year an amount equal to the income or profits tax actually paid by it for the year to the government of that jurisdiction (except such portion of that tax as was deductible under subsection 20(11) or (12) in computing its income for the year), minus the aggregate of the amounts deemed by paragraph (b) to have been paid to that government for the year by all beneficiaries under the trust.

*Section 104*Testamen-  
tary trusts

(23) In the case of a testamentary trust, notwithstanding any other provision of this Act the following rules apply:

(23). Subsection 63(13), modified

(a) the taxation year of the trust is the period for which the accounts of the trust have been ordinarily made up and accepted for purposes of assessment under this Act and, in the absence of an established practice, the period adopted by the trust for that purpose (but no such period may exceed 12 months and a change in a usual and accepted period may not be made for the purpose of this Act without the concurrence of the Minister);

(b) when a taxation year is referred to by reference to a calendar year, the reference is to the taxation year or years coinciding with, or ending in, that year;

(c) the income of a person for a taxation year from the trust shall be deemed to be his benefits from or under the trust for the taxation year or years of the trust that ended in the year determined as provided by this section and section 105;

(d) where an individual having income from the trust died after the end of a taxation year of the trust but before the end of the calendar year in which that taxation year ended, a separate return of his income from the trust after the end of the trust's taxation year to the time of death shall be filed and tax under this Part shall be paid thereon as if that income were the income of another person; and

(e) in lieu of making the payments required by section 156, the trust shall pay to the Receiver General of Canada within 90 days from the end of each taxation year, the tax for the year as estimated under section 151.

## Section 104

|                                      |  |   |
|--------------------------------------|--|---|
| "Amount payable"                     | (24) For the purposes of subsections (6), (7), (8), (13) and (20), an amount shall not be considered to be payable in a taxation year unless it was paid in the year to the person to whom it was payable or he was entitled in that year to enforce payment thereof.  | (24). Subsection 63(7), modified            |
| Benefits under trust, contract, etc. | <b>105.</b> (1) The value of all benefits (other than a distribution or payment of capital) to a taxpayer during a taxation year from or under a trust, contract, arrangement or power of appointment, irrespective of when made or created, shall, subject to subsection (2), be included in computing his income for the year.   | <b>105.</b> (1). Subsection 65(1), modified |
| Upkeep, etc.                         | (2) Such part of an amount paid by a trust out of income of the trust for the upkeep, maintenance or taxes of or in respect of property that, under the terms of the trust arrangement, is required to be maintained for the use of a tenant for life or a beneficiary as is reasonable in the circumstances shall be included in computing the income of the tenant for life or other beneficiary from the trust for the taxation year for which it was paid.   | (2). Subsection 65(2), modified             |
| Income interest in trust             | <b>106.</b> (1) Where an amount in respect of a taxpayer's income interest in a trust has been included in computing his income for a taxation year by virtue of subsection 104(13) or subsection (2) of this section, there may be deducted in computing his income for the year the lesser of<br>(a) the amount so included in computing his income for the year, and<br>(b) the amount, if any, by which the cost to the taxpayer of the income interest exceeds the aggregate of all amounts in respect of the interest that were deductible by virtue of this subsection in computing his income for previous taxation years. | <b>106.</b> New                             |

## Section 106

Disposition  
by tax-  
payer of  
income  
interest

(2) Where in a taxation year a taxpayer disposes of an income interest in a trust,

(a) there shall be included in computing his income for the year the proceeds of the disposition;

(b) any taxable capital gain or allowable capital loss of the taxpayer from the disposition shall be deemed to be nil; and

(c) for greater certainty, the cost to the taxpayer of each property received by him as consideration for the disposition is the fair market value of the property at the time of the disposition.

(2). New

Proceeds  
of disposi-  
tion of  
income  
interest

(3) For greater certainty, where at any time any property of a trust has been distributed by the trust to a taxpayer who was a beneficiary under the trust in satisfaction of all or any part of his income interest in the trust, the trust shall be deemed to have disposed of the property for proceeds of disposition equal to the fair market value of the property at that time.

(3). New

Disposi-  
tion by  
taxpayer  
of capital  
interest

107. (1) Where a taxpayer has disposed of a capital interest in a trust,

(a) for the purposes of computing his taxable capital gain, if any, from the disposition of the interest, the adjusted cost base to him thereof immediately before the disposition shall be deemed to be an amount equal to the cost amount to him of the interest immediately before that time, and

(b) for greater certainty, for the purposes of computing his allowable capital loss, if any, from the disposition of the interest, the adjusted cost base to him thereof immediately before the disposition is the adjusted cost base to him of the interest immediately before that time as determined under this Act without reference to paragraph (a),

except that where the interest was an interest in an *inter vivos* trust not resident in Canada that was purchased by the taxpayer, paragraph (a) does not apply in respect of the disposition thereof except where subsection (2) is applicable in respect of any distribution of property by the trust to him in satisfaction of all or any part of the interest.

107. (1). New



Distribu-  
tion by  
trust in  
satis-  
faction of  
capital  
interest

(2) Where at any time any property of a trust has been distributed by the trust to a taxpayer who was a beneficiary under the trust in satisfaction of all or any part of his capital interest in the trust, the following rules apply:

(a) the trust shall be deemed to have disposed of the property for proceeds of disposition equal to its cost amount to the trust immediately before that time;

(b) the taxpayer shall be deemed to have acquired the property at a cost equal to the aggregate of its cost amount to the trust immediately before that time and that proportion of the amount, if any, by which

(i) the adjusted cost base to him of the capital interest immediately before that time as determined for the purposes of paragraph (1)(b)

exceeds

(ii) the cost amount to him of the capital interest immediately before that time

that the cost amount to the trust of the property immediately before that time is of the amount determined under subparagraph (ii);

(c) the taxpayer shall be deemed to have disposed of all or part, as the case may be, of the capital interest for proceeds equal to the cost at which he is deemed by paragraph (b) to have acquired the property, minus the amount of any debt assumed by the taxpayer or of any other legal obligation assumed by him to pay any amount, if the distribution of the property to him was conditional upon the assumption by him of the debt or obligation; and

(d) where the property so distributed was depreciable property of a prescribed class of the trust and the amount that was the capital cost to the trust of that property exceeds the cost at which he is deemed by this section to have acquired the property, for the purposes of sections 13 and 20 and any regulations made under paragraph 20(1)(a)

(i) the capital cost to the taxpayer of the property shall be deemed to be the amount that was the capital cost of the property to the trust, and

(2). New

## Subsection 107(2)

(ii) the excess shall be deemed to have been allowed to the taxpayer in respect of the property under regulations made under paragraph 20(1)(a) in computing income for taxation years before the acquisition by him of the property.

Deter-  
mination  
of cost of  
property  
other than  
non-  
depreciable  
capital  
property

(3) Where the property referred to in subsection (2) that was distributed by a trust to a taxpayer was property, other than capital property that was not depreciable property, for the purpose of determining the cost to the taxpayer of the property under paragraph (2)(b) (except for the purposes of paragraph (2)(b) as it applies to determine the taxpayer's proceeds of disposition of his capital interest under paragraph (2)(c)), the reference in paragraph (2)(b) to "that proportion" shall be read as a reference to "1/2 of that proportion".

(3). New

Where  
trust a  
settlement

(4) Where the trust referred to in subsection (2) was a trust described in paragraph 104(4)(a) and

(4). New

(a) the property so distributed by the trust was capital property other than depreciable property,

(b) the taxpayer to whom the property was so distributed was a person other than the spouse, and

(c) the spouse was alive at the time the property was so distributed,

notwithstanding paragraphs (2)(a) to (d), the following rules apply:

(d) the trust shall be deemed to have disposed of the property for proceeds equal to its fair market value at that time;

(e) the taxpayer shall be deemed to have acquired the property at a cost equal to that fair market value, and

(f) the taxpayer shall be deemed to have disposed of all or part, as the case may be, of his interest in the trust, for proceeds of disposition equal to that fair market value.

Distribu-  
tion to  
non-  
resident  
beneficiary

(5) Where subsection (2) is applicable in respect of the distribution by a trust of any property of the trust to a non-resident taxpayer who was a beneficiary under the trust and the property was not taxable Canadian property, notwithstanding paragraphs (2)(a) to (c) the provisions of paragraphs (4)(d) to (f) are applicable in respect of the property.

(5). New

## Definitions

"Accumulating income"

"Beneficiary"

"Capital interest"

"Cost amount" of capital interest

108. (1) In this subdivision,

(a) "accumulating income" of a trust for a taxation year means the amount that, but for subsection 104(12), would be its income for the year;

(b) "beneficiary" under a trust includes a person beneficially interested therein;

(c) "capital interest" of a taxpayer in a trust means a right (whether immediate or future and whether absolute or contingent) of the taxpayer as a beneficiary under the trust to, or to receive, all or any part of the capital of the trust;

(d) "cost amount" of any capital interest of a taxpayer in any trust at any time means,

(i) in any case where any money or property of the trust has been distributed by the trust to the taxpayer in full satisfaction of the whole of his capital interest (whether on the winding-up of the trust or otherwise), the aggregate of the money so distributed and all amounts each of which is the cost amount to the trust, immediately before the distribution, of each such property so distributed to the taxpayer, and

(ii) in any other case, that proportion of the amount, if any, by which the aggregate of all money of the trust on hand immediately before that time and all amounts each of which is the cost amount to the trust, immediately before that time, of each property of the trust exceeds the aggregate of all amounts each of which is the amount of any debt owing by the trust, or of any other obligation of the trust to pay any amount, that was outstanding immediately before that time, that

(A) the fair market value at that time of the capital interest in the trust,

is of

(B) the fair market value at that time of all capital interests in the trust;

108. (1). New

"Income  
interest"

(e) "income interest" of a taxpayer in a trust means a right (whether immediate or future and whether absolute or contingent) of the taxpayer as a beneficiary under the trust to, or to receive, all or any part of the income of the trust;

"Inter  
vivos  
trust"

(f) "*inter vivos* trust" means a trust other than a testamentary trust;

"Preferred  
bene-  
ficiary"

(g) "preferred beneficiary" under any trust means an individual resident in Canada who is a beneficiary under the trust and is

- (i) the settlor of the trust,
- (ii) the spouse or former spouse of the settlor of the trust, or
- (iii) a child, grandchild or great grandchild of the settlor of the trust, or the spouse of any such person;

"Settlor"

(h) "settlor",

- (i) in relation to a testamentary trust, means the individual referred to in paragraph (i), and

- (ii) in relation to an *inter vivos* trust,
  - (A) if the trust was created by the transfer, assignment or other disposition of property thereto (in this paragraph referred to as property "contributed") by not more than one individual and the fair market value of such of the property of the trust as was contributed by him at the time of the creation of the trust or at any subsequent time exceeds the fair market value of such of the property of the trust as was contributed by any other person or persons at any subsequent time (such fair market values being determined at the time of the making of any such contribution), means that individual, and

- (B) if the trust was created by the contribution of property thereto jointly by an individual and his spouse and by no other person and the fair market value of such of the property of the trust as was contributed by them at the time of the creation of the trust or at any subsequent time exceeds the fair market value of such of the property of the trust as was contributed by any other person or persons at



## Subsection 108(1)

any subsequent time (such fair market values being determined at the time of the making of any such contribution), means that individual and his spouse;

"Testamentary trust"

(i) "testamentary trust" means a trust or estate that arose upon the death of the individual creating the trust or estate; and

"Trust"

(j) "trust" includes an *inter vivos* trust and a testamentary trust but, in subsections 104(4), (12), (14) and (15) and sections 105 to 107, does not include

(i) a unit trust, or

(ii) a trust governed by a registered pension fund or plan, an employees profit sharing plan, a registered supplementary unemployment benefit plan, a registered retirement savings plan or a deferred profit sharing plan.

Meaning of expression "unit trust"

(2) For the purposes of this Act, a trust is a unit trust at any time if, at that time,

(a) it was an *inter vivos* trust the interest of each beneficiary under which was described by reference to units of the trust, and

(b) the issued units of the trust included units

(i) having conditions attached thereto that included conditions requiring the trust to accept, at the demand of the holder thereof and at prices determined and payable in accordance with the conditions, the surrender of the units, or fractions or parts thereof, that are fully paid, or

(ii) qualified in accordance with prescribed conditions relating to the redemption of the units by the trust,

and the fair market value of such of the units as had conditions attached thereto that included such conditions or as were so qualified, as the case may be, was not less than 95% of the fair market value of all of the issued units of the trust (such fair market values being determined without regard to any voting rights attaching to units of the trust).

(2). New

DIVISION C — COMPUTATION  
OF TAXABLE INCOME

Deductions  
permitted  
by  
individuals

109. (1) For the purpose of computing the taxable income of an individual for a taxation year, there may be deducted from his income for the year such of the following amounts as are applicable:

Married  
status

(a) in the case of an individual who, during the year, was a married person who supported his spouse, an amount equal to the aggregate of

(i) \$1,500, and

(ii) \$1,350 less the amount, if any, by which the spouse's income for the year while married exceeds \$250;

Wholly  
dependent  
persons

(b) in the case of an individual not entitled to a deduction under paragraph (a) who, during the year,

(i) was an unmarried person or a married person who did not support or live with his spouse and was not supported by his spouse, and

(ii) whether by himself or jointly with one or more other persons, maintained a self-contained domestic establishment (in which the individual lived) and actually supported therein a person who, during the year, was

(A) wholly dependent for support upon, and

(B) connected, by blood relationship, marriage or adoption, with

the taxpayer, or the taxpayer and such one or more other persons, as the case may be,

an amount equal to the aggregate of

(iii) \$1,500, and

(iv) \$1,350 less the amount, if any, by which the income for the year of the dependent person exceeds \$250;

Single  
status

(c) in the case of an individual not entitled to a deduction under paragraph (a) or (b), \$1,500;

109. (1). Section 26, modified

## Children

(d) for each child or grandchild of the individual who, during the year, was wholly dependent upon him for support and was

- (i) under 21 years of age,
- (ii) 21 years of age or over and dependent by reason of mental or physical infirmity, or
- (iii) 21 years of age or over and in full-time attendance at a school or university,

an amount equal to

- (iv) if the child or grandchild has not attained the age of 16 years before the end of the year, \$300 less 1/2 of the amount, if any, by which the income for the year of the child or grandchild, as the case may be, exceeds \$1,000, and
- (v) in any other case, \$550 less the amount, if any, by which the income for the year of the child or grandchild, as the case may be, exceeds \$1,050;

## Niece or nephew

(e) for each niece or nephew of the individual or his spouse, who, during the year, resided in Canada, was wholly dependent upon the individual for support and was a person described in subparagraph (d)(i), (ii) or (iii), if, during the year,

- (i) the mother of the niece or nephew, as the case may be, was living apart from, and was separated pursuant to a divorce, judicial separation or written separation agreement from, her husband or former husband and was not in receipt of any amount as alimony or other allowance payable on a periodic basis for the maintenance of the niece or nephew,
- (ii) the father of the niece or nephew, as the case may be, was physically or mentally infirm, or
- (iii) the father of the niece or nephew, as the case may be, was deceased and the mother was not remarried,

an amount equal to,

- (iv) if the niece or nephew has not attained the age of 16 years before the end of the year, \$300 less 1/2 of the amount, if any, by which the income for the

year of the niece or nephew, as the case may be, exceeds \$1,000, and

(v) in any other case, \$550 less the amount, if any, by which the income for the year of the niece or nephew, as the case may be, exceeds \$1,050;

(f) an amount expended by the individual during the year for the support of a person who, during the year, was dependent upon the individual for support and was

(i) his parent or grandparent and dependent by reason of mental or physical infirmity,

(ii) his brother or sister

(A) under 21 years of age,

(B) 21 years of age or over and dependent by reason of mental or physical infirmity, or

(C) 21 years of age or over and in full-time attendance at a school or university,

not exceeding an amount equal to,

(iii) if the person has not attained the age of 16 years before the end of the year, \$300 less 1/2 of the amount, if any, by which the income for the year of the person exceeds \$1,000, and

(iv) in any other case, \$550 less the amount, if any, by which the income for the year of the person exceeds \$1,050;

(g) an amount expended by the individual during the year for the support of a person who, during the year, was the aunt or uncle of the individual or of the individual's spouse and was

(i) resident in Canada, and

(ii) dependent upon the taxpayer for support by reason of mental or physical infirmity,

not exceeding \$550 less the amount, if any, by which the income for the year of the person exceeds \$1,050; and

(h) in the case of an individual who, before the end of the year, has attained the age of 65 years, \$650.

Other  
dependants

Aunt  
or  
uncle

Over  
65  
years



## Section 109

Limitation

(2) For the purpose of a deduction under paragraph (1)(b), the following rules apply:

(a) no deduction may be made under that paragraph by any taxpayer in respect of more than one person;

(b) where a taxpayer is entitled to a deduction under that paragraph in respect of any person therein described, neither the taxpayer nor any other taxpayer is entitled to a deduction under paragraph (1)(d), (e), (f) or (g) in respect of that person; and

(c) no more than one taxpayer is entitled to a deduction under that paragraph in respect of the same person or the same domestic establishment, and in the event of failure on the part of two or more taxpayers otherwise entitled to a deduction under that paragraph to agree as to the taxpayer by whom the deduction may be made, no deduction thereunder may be made by either or any of them.

Dependent child

(3) For the purpose of the deduction for a child under paragraph (1)(d), it shall be assumed, unless the contrary is established, that an illegitimate child was wholly dependent on his mother and that any other child was wholly dependent on his father.

Alimony and maintenance cases

(4) Where a taxpayer is entitled to a deduction in computing his income for a taxation year under paragraph 60(b) or (c) in respect of a payment for the maintenance of a spouse or child, the spouse or child shall, for the purposes of this section, be deemed not to be the spouse or child of the taxpayer.

Partial dependency

(5) Where more than one taxpayer is, in respect of a taxation year, entitled to deduct an amount under paragraph (1)(f) or (g) in respect of the same dependant, no more than the amount determined thereunder in respect of the dependant for the year is deductible in respect of the dependant, and where the taxpayers cannot agree as to what portion of the amount each can deduct, the Minister may fix the portions.

(2). Subsection 26(5a), modified

(3). Subsection 26(3)

(4). Subsection 26(5)

(5). Subsection 26(6), modified

Other  
deductions  
permitted

110. (1) For the purpose of computing the taxable income of a taxpayer for a taxation year, there may be deducted from his income for the year such of the following amounts as are applicable:

Charitable  
donations

(a) the aggregate of gifts made by the taxpayer in the year (and in the immediately preceding year, to the extent of the amount thereof that was not deductible under this Act in computing the taxable income of the taxpayer for that immediately preceding year) to

(i) registered Canadian charitable organizations,

(ii) registered Canadian amateur athletic associations,

(iii) housing corporations resident in Canada and exempt from tax under this Part by paragraph 149(1)(i),

(iv) Canadian municipalities,

(v) the United Nations or agencies thereof,

(vi) universities outside Canada prescribed to be universities the student body of which ordinarily includes students from Canada, and

(vii) charitable organizations outside Canada to which Her Majesty in right of Canada has made a gift during the taxpayer's taxation year or the 12 months immediately preceding that taxation year,

not exceeding 20% of the income of the taxpayer for the year, if payment of the amounts given is proven by filing receipts with the Minister that, in the case of a donation to a registered Canadian charitable organization or registered Canadian amateur athletic association, contain prescribed information;

Gifts to  
Her  
Majesty

(b) the aggregate of gifts made by the taxpayer in the year (and in the immediately preceding year, to the extent of the amount thereof that was not deductible under this Act in computing the taxable income of the taxpayer for that immediately preceding year) to Her Majesty in right of Canada and Her Majesty in right of the provinces, not exceeding the amount remaining, if any,

110. (1). Subsection 27(1), modified

(a). Paragraph 27(1)(a), modified

(b). Paragraph 27(1)(b)

when the amount deductible for the year under paragraph (a) is deducted from the income of the taxpayer for the year, if payment of the amounts given is proven by filing receipts with the Minister;

(c) an amount equal to that portion of medical expenses in excess of 3% of the taxpayer's income for the year paid either by the taxpayer or his legal representatives

(i) within a period of 12 months ending in the year and not included in the calculation of a deduction for medical expenses under this Act for a previous year, or

(ii) in the event of the death of the taxpayer, within a period of 12 months commencing in the year and not included in the calculation of a deduction for medical expenses under this Act for a previous year,

if payment was made

(iii) to a medical practitioner, dentist or nurse qualified to practise under the laws of the place where the expenses were incurred or a public or licensed private hospital in respect of a birth in the family of, illness of or operation on the taxpayer, his spouse or any dependant in respect of whom he may make a deduction from income under section 109 for the year in which the expense was incurred,

(iv) as remuneration for one full-time attendant upon, or for the full-time care in a nursing home of, the taxpayer, his spouse or any such dependant who was throughout the whole of a 12 months' period ending in the taxation year necessarily confined by reason of illness, injury or affliction to a bed or wheel chair,

(v) for the full-time care in a nursing home of any such dependant if the dependant is, and has been certified by a qualified medical practitioner to be, a person who, by reason of lack of normal mental development, is and in the foreseeable future will continue to be depend

(c). Paragraph 27(1)(c), modified

ent on others for his personal needs and care,

(vi) for the care of the taxpayer, his spouse or any such dependant in a school, institution or other place of care that is specially equipped to provide care to persons who are physically or mentally handicapped and that admits for care only persons who are so handicapped,

(vii) as remuneration for one full-time attendant upon the taxpayer, his spouse or any such dependant who was totally blind at any time in the taxation year and required the services of an attendant,

(viii) for transportation by ambulance to or from a public or licensed private hospital for the taxpayer, his spouse or any such dependant,

(ix) for or in respect of an artificial limb, iron lung, rocking bed for poliomyelitis victims, wheel chair, crutches, spinal brace, brace for a limb, ilioostomy or colostomy pad, truss for hernia, artificial eye, laryngeal speaking aid, aid to hearing or artificial kidney machine for the taxpayer, his spouse or any such dependant,

(x) for eye glasses or other devices for the treatment or correction of a defect of vision, for the taxpayer, his spouse or any such dependant as prescribed by such a medical practitioner or an optometrist qualified to practise under the laws of the place where the expenses were incurred,

(xi) for an oxygen tent or other equipment necessary to administer oxygen or for insulin, oxygen, liver extract injectible for pernicious anaemia or vitamin B12 for pernicious anaemia, for use by the taxpayer, his spouse or any such dependant as prescribed by such a medical practitioner,

(xii) for any device or equipment, not described in any other subparagraph of this paragraph, of a prescribed kind, for use by the taxpayer, his spouse or any such dependant as prescribed by such a medical practitioner,

(xiii) for drugs, medicaments or other preparations or substances (except those



described in subparagraph (xi)) manufactured, sold or represented for use in the diagnosis, treatment or prevention of a disease, disorder, abnormal physical state, or the symptoms thereof or in restoring, correcting or modifying an organic function, purchased for use by the taxpayer, his spouse or any such dependant as prescribed by such a medical practitioner or dentist and as recorded by a pharmacist licensed to practise under the laws of the place where the expenses were incurred,

(xiv) for laboratory, radiological or other diagnostic procedures or services together with necessary interpretations, for maintaining health, preventing disease or assisting in the diagnosis or treatment of any injury, illness or disability, for the taxpayer, his spouse or any such dependant as prescribed by such a medical practitioner or dentist, or

(xv) to a person authorized under the laws of a province to carry on the business of a dental mechanic, for the making or repairing of an upper or lower denture, or for the taking of impressions, bite registrations and insertions in respect of the making, producing, constructing and furnishing of an upper or lower denture,

if payment of the expenses is proven by filing receipts with the Minister;

*Subsection 110(1)*

(d). Paragraph 27(1)(ca)

Optional  
standard  
deduction

(d) \$100 in the case of a taxpayer who is an individual, but where a deduction is made under this paragraph in computing the taxable income of the taxpayer for a taxation year,

(i) no deduction may be made under paragraph (a) of this subsection in respect of gifts made by him in that year in computing his taxable income for that or a subsequent taxation year, and

(ii) no deduction may be made under paragraph (c) of this subsection in computing his taxable income for that year;

(e) \$650 if the taxpayer

(i) was totally blind at any time in the year or was, throughout the whole of the year, necessarily confined, by reason of illness, injury or affliction, to a bed or wheel chair, and

(ii) did not include any amount in respect of remuneration for an attendant, or care in a nursing home, by reason of his blindness, illness, injury or affliction in calculating a deduction for medical expenses under this section for the year; and

Blind  
persons  
and per-  
sons  
confined  
to bed  
or wheel  
chair

(e). Paragraph 27(1)(d) modified

*Subsection 110(1)*

(f). New

Deduction  
for  
payments  
of  
supplement  
under  
*Old Age  
Security  
Act*

(f) the amount of any supplement under the *Old Age Security Act* or of any similar payment under a law of a province, in respect of which any amount has been included in computing the taxpayer's income for the year by virtue of clause 56(1)(a)(i)(A).

Charitable  
gifts

(2) Where an individual was, during the taxation year, a member of a religious order and had, as such, taken a vow of perpetual poverty, he may, in lieu of the deduction permitted by paragraph (1)(a), deduct from his income for the year an amount equal to his earned income for the year as defined by section 63 if, of his income, that amount has been paid to the order.

(2). Subsection 27(2)

Com-  
muter's  
charitable  
donations

(3) Where a person resided during the whole of a taxation year in Canada near the boundary between Canada and the United States of America, if

(3). Subsection 27(3)

(a) he commuted to his principal place of employment or business in the United States, and

(b) his chief source of income for the year was that employment or business,

a gift made by him in the year to a religious, charitable, scientific, literary or educational organization created or organized in or under the law of the United States that would be allowed as a deduction under the United States Internal Revenue Code shall, for the purpose of paragraph (1)(a), be deemed to have been made to a registered Canadian charitable organization.

Appli-  
cation of  
paras. (1)(a)  
and (b)

(4) Paragraphs (1)(a) and (b) do not apply to permit a taxpayer to deduct, for the purpose of computing his taxable income for a taxation year, any amount in respect of gifts made by the taxpayer in the year, until the amount deductible under those paragraphs in respect of gifts made by the taxpayer in the immediately preceding year has been deducted.

(4). Subsection 27(3a)

Gifts  
made by  
Canadian  
partnership

(5) Where a person was, at the end of a taxation year of a partnership that was a Canadian partnership within the meaning assigned by section 102, a member of the partnership,

(5). New

*Subsection 110(5)*

(a) his share of any amount that would, if the partnership was a person liable to pay tax under this Part, be deductible under paragraph (1)(a) from its income for the year shall be deemed to be a gift made by that person, in his taxation year in which the taxation year of the partnership ended, to an organization described in paragraph (1)(a), and

(b) his share of any amount that would, if the partnership was a person liable to pay tax under this Part, be deductible under paragraph (1)(b) from its income for the year shall be deemed to be a gift made by that person, in his taxation year in which the taxation year of the partnership ended, to Her Majesty in right of Canada or a province.

Certain  
premiums  
deemed to  
be medical  
expenses

(6) For the purposes of paragraph (1)(c), any premium, contribution or other consideration paid by the taxpayer pursuant to a private health services plan in respect of the taxpayer, his spouse and any members of his household with whom he is connected by blood relationship, marriage or adoption, or in respect of any one or more of such persons, shall be deemed to be a medical expense paid by the taxpayer as described in subparagraph (iii) of that paragraph.

(6). New

Medical  
expenses  
where  
right to  
reimburse-  
ment

(7) Notwithstanding anything in this Part, there shall not be included in computing the medical expenses paid by or on behalf of a taxpayer or his legal representative any expenses for which the taxpayer or such representative has been or is entitled to be reimbursed.

(7). Subsection 27(4a), modified

Defini-  
tions

(8) In this section,

(8). New

"Private  
health  
services  
plan"

(a) "private health services plan" means  
(i) a contract of insurance in respect of hospital expenses, medical expenses or any combination of such expenses, or  
(ii) a medical care insurance plan or hospital care insurance plan or any combination of such plans,



except any such contract or plan established by or pursuant to

(iii) a law of a province with which the Minister of National Health and Welfare has entered into an agreement under section 3 of the *Hospital Insurance and Diagnostic Services Act* that provides for the payment by Canada to the province of contributions in respect of the cost of insured services incurred by the province pursuant to that provincial law,

(iv) an enactment of the Parliament of Canada that authorizes the provision of a medical care insurance plan or hospital care insurance plan for employees of Canada and their dependants and for dependants of members of the Royal Canadian Mounted Police and the regular force where such employees or members were appointed in Canada and are serving outside Canada, or

(v) a medical care insurance plan established pursuant to a law of a province that satisfies the criteria set forth in subsection 4(1) of the *Medical Care Act*;

(b) "registered Canadian amateur athletic association" means an association that was created under any law in force in Canada, that is resident in Canada, and that

(i) is a person described in paragraph 149(1)(f), and

(ii) has, as its primary purpose and its primary function, the promotion of amateur athletics in Canada on a nationwide basis,

that has applied to the Minister in prescribed form for registration, that has been registered and whose registration has not been revoked under subsection 168(2); and

(c) "registered Canadian charitable organization" means

(i) a charitable organization in Canada exempt from tax under this Part by paragraph 149(1)(f) or a corporation or trust resident in Canada exempt from tax under this Part by paragraph 149(1)(g) or (h), or

(iii). Paragraph 27(4a)(a)

(iv). Paragraph 27(4a)(b)

(v). Paragraph 27(4a)(c)

(b). New

(c). Subsection 27(3b), modified

"Registered Canadian amateur athletic association"

"Registered Canadian charitable organization"

(ii) a branch, section, parish, congregation or other division of an organization described in subparagraph (i) that receives donations on its own behalf,

that has applied to the Minister in prescribed form for registration, that has been registered and whose registration has not been revoked under subsection 168(2).

Losses  
deductible

111. (1) For the purpose of computing the taxable income of a taxpayer for a taxation year, there may be deducted from the income for the year such of the following amounts as are applicable:

Non-  
capital  
losses

(a) non-capital losses for the 5 taxation years immediately preceding and the taxation year immediately following the taxation year, but no amount is deductible in respect of non-capital losses from the income of any year except to the extent of the taxpayer's income for the year minus all deductions permitted by the provisions of this Division other than this paragraph, paragraph (b) or section 109;

Net  
capital  
losses

(b) net capital losses for taxation years preceding and the taxation year immediately following the taxation year, but no amount is deductible in respect of net capital losses from the income of any year except to the extent of the lesser of

(i) the amount, if any, by which the taxpayer's income for the year exceeds the aggregate of all deductions permitted by the provisions of this Division other than this paragraph or section 109, and

(ii) the aggregate of the amount, if any, determined under paragraph 3(b) in respect of the taxpayer for the year and, where the taxpayer is an individual, the amount, if any, by which \$1,000 exceeds the amount determined in respect of him

111. (1). Paragraph 27(1)(e), modified

## Subsection 111(1)

for the year under subparagraph 3(e)(i);  
and

Restricted  
farm losses

(c) restricted farm losses of the taxpayer for the 5 taxation years immediately preceding and the taxation year immediately following the taxation year, but no amount is deductible in respect of a restricted farm loss from the income for any year except to the extent of the lesser of

(i) the taxpayer's income for the year minus all deductions permitted by the provisions of this Division other than this subsection or section 109, and

(ii) his incomes for the year from all farming businesses carried on by him.

Net capital  
loss in  
year of  
death

(2) Where a taxpayer has died in a taxation year, in applying paragraph (1)(b) for the purpose of computing his taxable income for that year and the immediately preceding taxation year, that paragraph shall be read without reference to

(a) the words "the lesser of", and

(b) subparagraph (ii) thereof.

(2). New

Limitation  
on deduct-  
ibility

(3) For the purposes of subsection (1),

(a) an amount in respect of a non-capital loss, net capital loss or restricted farm loss, as the case may be, for a taxation year is only deductible to the extent that it exceeds the aggregate of

(i) amounts previously deductible in respect of that loss under this section, and

(ii) amounts previously subtracted in respect of that loss under paragraph 186(1)(c) or (d) in determining amounts on which tax under Part IV has become payable; and

(b) no amount is deductible in respect of a non-capital loss, net capital loss or restricted farm loss, as the case may be, for any year until

(3). Paragraph 27(1)(e), modified

*Subsection 111(3)*

- (i) in the case of a non-capital loss, the deductible non-capital losses,
  - (ii) in the case of a net capital loss, the deductible net capital losses, and
  - (iii) in the case of a restricted farm loss, the deductible restricted farm losses,
- for previous years have been deducted.

Application  
of  
ss. (1)  
where  
change  
in control

(4) Subsection (1) does not apply to permit a corporation to deduct, for the purpose of computing its taxable income for a taxation year, any amount in respect of its net capital loss for a preceding year if, before the end of the year, control of the corporation has been acquired by a person or persons who did not, at the end of that preceding year, control the corporation.

(4). New

Idem

(5) Subsection (1) does not apply to permit a corporation to deduct, for the purpose of computing its taxable income for a taxation year, such portion of its non-capital loss for a preceding year as may reasonably be regarded as its loss from carrying on any particular business if

(5). Subsections 27(5) and (5a), modified

(a) control of the corporation has been acquired, before the end of the year, by a person or persons who did not, at the end of that preceding year, control the corporation and the corporation was not, during the year, carrying on that business, or

(b) control of the corporation was acquired, before the end of the year and after the winding-up or discontinuance of that business, by a person or persons who did not control the corporation at any time during that preceding year when that business was being carried on.

Limitation

(6) For the purposes of paragraph 53(1)(i) and this section, any loss of a taxpayer for a taxation year from a farming business shall, after the taxpayer disposes of the land used in that farming business and to the extent that the amount of such loss is required by paragraph 53(1)(i) to be added in computing the adjusted cost base to the taxpayer of the land immediately before the disposition, be deemed not to be a loss.

(6). New



## Section 111

Idem (7) For the purposes of this section, any loss of a taxpayer for a taxation year from a farming business shall, to the extent that such loss is included in the amount of any deduction permitted by section 101 in computing his income for any subsequent taxation year, be deemed not to be a loss of the taxpayer for the purpose of computing his taxable income for that subsequent year or any taxation year subsequent thereto.

(7). New

## Definitions

(8) In this section,

(8). New

"Net capital loss"

(a) "net capital loss" of a taxpayer for a taxation year means the amount, if any, by which

(i) the amount determined under subparagraph 3(e)(i) in respect of the taxpayer for the taxation year

exceeds

(ii) the lesser of

(A) the amount determined under subparagraph 3(e)(ii), and

(B) the amount determined under paragraph 3(d)

in respect of the taxpayer for the taxation year;

(b) "non-capital loss" of a taxpayer for a taxation year means the amount, if any, by which

(i) the aggregate of all amounts each of which is the taxpayer's loss for the year from an office, employment, business or property,

exceeds

(ii) the amount determined under paragraph 3(c) less any amounts deductible under section 112 or subsection 113(1) from the taxpayer's income for the year; and

(c) a reference to any amount determined under any paragraph or subparagraph of section 3 for a taxation year shall be read as a reference to,

"Non-capital loss"

Reference in section 3

- (i) in the case of a taxpayer to whom section 114 applies in respect of the year, the amount determined under any such paragraph or subparagraph for the year for the purposes of section 114, and
- (ii) in the case of a taxpayer who at no time in the year was resident in Canada, the amount determined under any such paragraph or subparagraph for the year for the purposes of section 115.

Deduction  
of taxable  
dividends  
received  
by corpor-  
ation  
resident in  
Canada

112. (1) Where a corporation in a taxation year has received a taxable dividend from

- (a) a taxable Canadian corporation, or
- (b) a corporation resident in Canada and controlled by it,

an amount equal to the dividend may be deducted from the income of the receiving corporation for the year for the purpose of computing its taxable income.

Dividends  
received  
from non-  
resident  
corporation

(2) Where a corporation in a taxation year has received a taxable dividend from a corporation that was taxable under subsection 2(3) for the year and that has, throughout the period from June 18, 1971 to the time when the dividend was received, carried on a business in Canada through a permanent establishment as defined by regulation, an amount equal to that proportion of the dividend that the paying corporation's taxable income earned in Canada for the immediately preceding year is of the whole of the amount that its taxable income for that year would have been if it had been resident in Canada throughout that year, may be deducted from the income of the receiving corporation for the taxation year for the purpose of computing its taxable income.

Loss from  
transaction  
involving  
share on  
which  
deductible  
dividend  
received

(3) Where an amount in respect of a taxable dividend received by a corporation (other than a trader or dealer in securities) in a taxation year is, by virtue of this section or subsection 138(6), deductible from the corporation's income for the year, the amount of any loss

112. (1). Subsection 28(1), modified

(2). Subsection 28(10), modified

(3). New

## Subsection 112(3)

arising from transactions with reference to the share on which the dividend was received shall, unless it is established by the corporation that

(a) the corporation owned the share 365 days or longer before the loss was sustained, and

(b) the corporation did not, at the time the dividend was received, own more than 5% of the issued shares of any class of the capital stock of the corporation from which the dividend was received,

be deemed to be the amount of that loss otherwise determined, minus the aggregate of all amounts received by the corporation in respect of taxable dividends on the share, to the extent that the amounts thereof

(c) were deductible from the corporation's income for any taxation year by virtue of this section or subsection 138(6), and

(d) were not amounts upon which the corporation was required to pay tax under Part VII.

(4) The amount of any loss of a trader or dealer in securities (whether incorporated or otherwise) arising from transactions with reference to any share on which an amount in respect of a dividend has been received by him shall, unless it is established by him that

(a) he owned the share 365 days or longer before the loss was sustained, and

(b) he did not, at the time the dividend was received, own more than 5% of the issued shares of any class of the capital stock of the corporation from which the dividend was received,

be deemed to be the amount of that loss otherwise determined, minus the aggregate of all amounts received by him in respect of taxable dividends on the share to the extent that the amounts thereof were not amounts upon which he was required to pay tax under Part VII.

(4). New

(5) Subsection (1) is not applicable in respect of any taxable dividend received by a corporation that at the time the dividend was received was a trader or dealer in securities, to the extent of such portion, if any, of the dividend as was paid out of the payer corporation's designated surplus.

(5). New

Loss sustained by trader or dealer in securities

Limitation where dividend received by trader or dealer in securities

## Section 112

When  
corporation  
controlled

(6) In this section, one corporation is controlled by another corporation if more than 50% of its issued share capital (having full voting rights under all circumstances) belongs to the other corporation, to persons with whom the other corporation does not deal at arm's length, or to the other corporation and persons with whom the other corporation does not deal at arm's length.

(6). Subsection 28(5), modified

Deduction  
in respect  
of  
dividend  
received  
from  
foreign  
affiliate

113. (1) Where in a taxation year a corporation resident in Canada has received a dividend on a share owned by it of the capital stock of a foreign affiliate of the corporation, there may be deducted from the income for the year of the corporation for the purpose of computing its taxable income for the year, an amount equal to the aggregate of

113. (1). New

(a) the amount, if any, by which such portion of the dividend as is prescribed to have been paid out of the exempt surplus of the affiliate exceeds the amount deductible under subsection 90(2) in respect of the dividend in computing the corporation's income for the year, and

(b) an amount in respect of such portion of the dividend as is prescribed to have been paid out of the taxable surplus of the affiliate, equal to the lesser of

(i) that portion of the dividend, and

(ii) the foreign tax prescribed to be applicable to that portion of the dividend, plus 2 times such portion of any income or profits tax paid by the corporation to the government of a country other than Canada as may reasonably be regarded as having been paid in respect of that portion of the dividend.

Additional  
deduction

(2) Where, at any particular time in a taxation year ending after 1975, a corporation resident in Canada has received a dividend on a share owned by it at the end of its 1975 taxation year of the capital stock of a foreign affiliate of the corporation, there may be deducted from the income for the year of the corporation for the purpose of computing its taxable income for the year, an amount in respect of the dividend equal to the lesser of

(2). New



(a) the amount, if any, by which the amount of the dividend so received exceeds the aggregate of

- (i) the deductions in respect of the dividend permitted by subsections 90(2) and (3) in computing the corporation's income for the year, and
- (ii) the deduction in respect of the dividend permitted by subsection (1) from the income for the year of the corporation for the purpose of computing its taxable income, and

(b) the amount, if any, by which

- (i) the remainder obtained after subtracting from

(A) the adjusted cost base to the corporation of the share at the end of its 1975 taxation year

the aggregate of

- (B) the amount, if any, by which the aggregate of amounts required by paragraph 92(1)(a) to be added in computing the adjusted cost base referred to in subparagraph (i) exceeds the aggregate of amounts required by paragraph 92(1)(b) to be deducted in computing that adjusted cost base, and
- (C) such amounts in respect of dividends received by the corporation after the end of its 1975 taxation year and before the particular time as are deductible under subsection 90(3) in computing the income of the corporation for taxation years ending after 1975

exceeds

- (ii) the aggregate of the deductions permitted by this subsection in respect of dividends on the share received by the corporation before the particular time.

(3) Where an amount has been included in computing the income for a taxation year of a taxpayer resident in Canada by virtue of subsection 91(1), there may be deducted from the income of the taxpayer for the year for the purpose of computing his taxable income for the year, the lesser of the amount so included and

(3). New

- (a) where the taxpayer is an individual, the foreign accrual tax applicable to that amount, and

Deduction  
in respect  
of  
foreign  
accrual tax  
applicable  
to  
amount  
included  
in income

(b) where the taxpayer is a corporation, 2 times the foreign accrual tax applicable to that amount, plus, where that amount has been included in computing the taxpayer's income for the year by virtue of paragraph 91(1)(b), the foreign tax prescribed to be applicable to that amount.

Portion of dividend deemed paid out of exempt surplus

(4) Such portion of any dividend received at any time in a taxation year by a corporation resident in Canada on a share owned by it of the capital stock of a foreign affiliate of the corporation, that was received after the 1971 taxation year of the affiliate and before the affiliate's 1976 taxation year, as exceeds the amount deductible in respect of the dividend under subsection 90(3) in computing the corporation's income for the year shall, for the purposes of paragraph (1)(a), be deemed to be the portion of the dividend prescribed to have been paid out of the exempt surplus of the affiliate.

(4). New

Limitation on foreign accrual tax where treaty

(5) Where any particular amount is required by subsection 91(1) to be included in computing the income for a taxation year of a taxpayer resident in Canada and, by virtue of any other law of Canada other than this Act, the taxpayer is entitled to a deduction from the tax payable by him under this Part for the year in respect of such portion of any income or profits tax paid by any foreign affiliate of the taxpayer to the government of a country other than Canada as may reasonably be regarded as paid on the particular amount, for the purposes of computing any deduction under subsection (3) from the taxpayer's income for the year the foreign accrual tax applicable to the particular amount shall be computed as if the affiliate had paid no such income or profits tax.

(5). New

Construction of other provisions

(6) The provisions of this Act, other than this section, shall be read and construed as if the amount deductible under subsection (3) from a taxpayer's income for a taxation year were the amount that, but for subsection (5), would have been the amount deductible under subsection (3) in computing his income for the year.

(6). New

Meaning of  
"foreign  
accrual  
tax  
applicable"

(7) In this section, "foreign accrual tax applicable" to any amount included in computing a taxpayer's income by virtue of subsection 91(1) means the portion of any income or profits tax paid by a foreign affiliate of the taxpayer that may reasonably be regarded as applicable.

(7). New

Individual  
resident  
in Canada  
during  
part only  
of year

114. Where an individual was resident in Canada during part of a taxation year, and during some other part of the year was not resident in Canada, was not employed in Canada and was not carrying on business in Canada, for the purpose of this Part his taxable income for the taxation year is the aggregate of

114. Section 29, modified

(a) his income for the period or periods in the year during which he was resident in Canada, was employed in Canada or was carrying on business in Canada, computed as though such period or periods were the whole taxation year and as though any disposition of property deemed by subsection 48(1) to have been made by virtue of the taxpayer's having ceased to be resident in Canada were made in such period or periods, and

(b) the amount that would be his taxable income earned in Canada for the year if at no time in the year he had been resident in Canada, computed as though the portion of the year that is not in the period or periods referred to in paragraph (a) were the whole taxation year,

minus the aggregate of such of the deductions from income permitted for the purpose of computing taxable income as may reasonably be considered wholly applicable to the period or periods referred to in paragraph (a) and of such part of any other of the said deductions as may reasonably be considered applicable to such period or periods.

DIVISION D – TAXABLE INCOME  
EARNED IN CANADA  
BY NON-RESIDENTS

Non-residents' taxable income earned in Canada

115. (1) For the purposes of this Act, a non-resident person's taxable income earned in Canada for a taxation year is the amount of his income for the year that would be determined under section 3 if

- (a) he had no income other than
  - (i) incomes from the duties of offices and employments performed by him in Canada,
  - (ii) incomes from businesses carried on by him in Canada,
  - (iii) taxable capital gains from dispositions described in paragraph (b),
  - (iv) the amount, if any, by which any amount required by subsection 106(2) to be included in computing his income for the year as proceeds of the disposition of an income interest in a trust resident in Canada exceeds the amount in respect of that income interest that would, if he had been resident in Canada throughout the year, be deductible under subsection 106(1) in computing his income for the year, and
  - (v) in the case of a non-resident person described in subsection (2), the aggregate determined under paragraph (2)(e) in respect of him,

(b) the only taxable capital gains and allowable capital losses referred to in paragraph 3(b) were taxable capital gains and allowable capital losses from dispositions of property each of which was a disposition of a property (in this Act referred to as a "taxable Canadian property") that was

- (i) real property situated in Canada or an estate or interest therein,
- (ii) any other capital property used by him in carrying on a business in Canada,
- (iii) a share of the capital stock of a private corporation, or an interest therein,

115. (1). Subsection 31(1), modified



*Subsection 115(1)*

(iv) a share of the capital stock of a corporation (other than a private corporation) resident in Canada, or an interest therein, if at any time during the 5 years immediately preceding the disposition thereof not less than 25% of the issued shares of any class of the capital stock of the corporation belonged to the non-resident person, to persons with whom the non-resident person did not deal at arm's length, or to the non-resident person and persons with whom he did not deal at arm's length,

(v) an interest in a partnership, if at any time during the 12 months immediately preceding the disposition thereof the fair market value of such of the partnership property as was property described in this paragraph was not less than 50% of the aggregate of

(A) the fair market value at that time of all of the partnership property, and

(B) the amount of any money of the partnership on hand at that time,

(vi) a capital interest in a trust (other than a unit trust) resident in Canada,

(vii) a unit of a unit trust (other than a mutual fund trust) resident in Canada, or

(viii) a unit of a mutual fund trust, if at any time during the 5 years immediately preceding the disposition thereof not less than 25% of the issued units of the trust belonged to the non-resident person, to persons with whom the non-resident person did not deal at arm's length, or to the non-resident person and persons with whom he did not deal at arm's length, and

*Subsection 115(1)*

(c) the only losses referred to in paragraph 3(d) were losses from businesses carried on by him in Canada,

minus the aggregate of such of the deductions from income permitted for the purpose of computing taxable income as may reasonably be considered wholly applicable and of such part of any other of the said deductions as may reasonably be considered applicable.

Idem

(2) Where, in a taxation year, a non-resident person was

(a) a student in full-time attendance at an educational institution in Canada that is a university, college or other educational institution providing courses at a post-secondary school level in Canada,

(b) a student attending, or a teacher teaching at, an educational institution outside Canada that is a university, college or other educational institution providing courses at a post-secondary school level, who had, in any previous year, ceased to be resident in Canada in the course of or subsequent to moving to attend or to teach at, as the case may be, that institution, or

(c) an individual on leave of absence from an office or employment in Canada and in receipt of remuneration in respect of that office or employment, who had, in any previous year, ceased to be resident in Canada,

the following rules apply:

(d) for the purposes of subsection 2(3) he shall be deemed to have been employed in Canada in the year,

(2). New

(e) for the purposes of subparagraph (1)(a)(v), the aggregate determined under this paragraph in respect of the non-resident person is the aggregate of

(i) the remuneration referred to in paragraph (c) received by him in the year, and  
 (ii) amounts that would be required by paragraph 56(1)(n) or (o) to be included in computing his income for the year if he were resident in Canada throughout the year and the references therein to "received by the taxpayer in the year" were read as references to "received by the taxpayer in the year from a source in Canada"; and

(f) there may be deducted in computing the taxable income of the non-resident person for the year the amount that would be deductible in computing his income for the year by virtue of section 62 if

(i) that section were read without reference to paragraph (1)(a) thereof,  
 (ii) that section were applicable in computing the taxable income of non-resident persons, and  
 (iii) the amounts described in subparagraph (1)(f)(ii) thereof were the amounts described in subparagraph (e)(ii) of this subsection.

Disposition  
by non-  
resident  
person of  
certain  
property

116. (1) Where a non-resident person proposes to dispose of any property that would, if he disposed of it, be taxable Canadian property of that person other than property described in subparagraph 115(1)(b)(iv) or (viii), he may, at any time before the disposition, send to the Minister a notice setting forth:

(a) the name and address of the person to whom he proposes to dispose of the prop-

116. (1). New

erty (in this section referred to as the "proposed purchaser"),

(b) a description of the property sufficient to identify it,

(c) the estimated amount of the proceeds of disposition to be received by him for the property, and

(d) the amount of the adjusted cost base to him of the property at the time of the sending of the notice.

Certificate  
in respect  
of  
proposed  
disposition

(2) Where a non-resident person who has sent to the Minister a notice under subsection (1) in respect of a proposed disposition of any property has

(2). New

(a) paid to the Receiver General of Canada, as or on account of tax under this Part payable by him for the year, 25% of the amount, if any, by which the estimated amount set forth in the notice in accordance with paragraph (1)(c) exceeds the amount set forth in the notice in accordance with paragraph (1)(d), or

(b) furnished to the Minister security acceptable to the Minister in respect of the proposed disposition of the property,

the Minister shall forthwith issue to the non-resident person and the proposed purchaser a certificate in prescribed form in respect of the proposed disposition, fixing therein an amount (in this section referred to as the "certificate limit") equal to the estimated amount set forth in the notice in accordance with paragraph (1)(c).

Notice to  
be sent  
to  
Minister

(3) Every non-resident person who in a taxation year has made a disposition of any taxable Canadian property of that person other than property described in subparagraph 115(1)(b)(iv) or (viii) shall, not later than 10 days after the day on which the disposition was made, send to the Minister, by registered mail, a notice setting forth:

(3). New

(a) the name and address of the person to whom he disposed of the property,

(b) a description of the property sufficient to identify it, and



(c) a statement of the actual proceeds of disposition of the property and the amount of its adjusted cost base to him immediately before the disposition,

unless the non-resident person has, at any time before the disposition, sent to the Minister a notice under subsection (1) in respect of any proposed disposition of that property and

(d) the purchaser was the proposed purchaser referred to in that notice,

(e) the estimated amount set forth in that notice in accordance with paragraph (1)(c) is equal to or greater than the actual proceeds of disposition of the property, and

(f) the amount set forth in that notice in accordance with paragraph (1)(d) does not exceed the adjusted cost base to the non-resident person of the property immediately before the disposition.

Certificate  
in respect  
of  
property  
disposed  
of

(4) Where a non-resident person who has sent to the Minister a notice under subsection (3) in respect of a disposition of any property has

(4). New

(a) paid to the Receiver General of Canada, as or on account of tax under this Part payable by him for the year, 25% of the amount, if any, by which the actual proceeds of disposition of the property exceed the adjusted cost base to him of the property immediately before the disposition, or

(b) furnished to the Minister security acceptable to the Minister in respect of the disposition of the property,

the Minister shall forthwith issue to the non-resident person and the purchaser a certificate in prescribed form in respect of the disposition.

Liability  
of  
purchaser  
in certain  
cases

(5) Where in a taxation year a purchaser has acquired from a non-resident person any of that non-resident person's taxable Canadian property other than property described in subparagraph 115(1)(b)(iv) or (viii),

(5). New

(a) the purchaser is liable to pay, as tax under this Part for the year on behalf of the non-resident person, 15% of the amount, if any, by which

(i) the cost to the purchaser of the property so acquired

exceeds

(ii) the certificate limit fixed by any certificate under subsection (2) issued to him by the Minister in respect of the property,

and is entitled to deduct or withhold from any amount paid or credited by him to the non-resident person or otherwise recover from the non-resident person any amount paid by him as such tax; and

(b) at such time, if any, as any certificate under subsection (4) is issued to him by the Minister in respect of the property, the purchaser ceases to be liable under this subsection to pay any amount as tax under this Part for the year on behalf of the non-resident person.

## DIVISION E — COMPUTATION OF TAX

### Subdivision a — Rules Applicable to Individuals

117. (1) The tax payable by an individual under this Part upon his taxable income or taxable income earned in Canada, as the case may be, (in this subdivision referred to as the "amount taxable") for the 1972 taxation year is

(a) 17% of the amount taxable if the amount taxable does not exceed \$500,

117. (1). Subsection 32(1), modified

- (b) \$85 plus 18% of the amount by which the amount taxable exceeds \$500 if the amount taxable exceeds \$500 and does not exceed \$1,000,
- (c) \$175 plus 19% of the amount by which the amount taxable exceeds \$1,000 if the amount taxable exceeds \$1,000 and does not exceed \$2,000,
- (d) \$365 plus 20% of the amount by which the amount taxable exceeds \$2,000 if the amount taxable exceeds \$2,000 and does not exceed \$3,000,
- (e) \$565 plus 21% of the amount by which the amount taxable exceeds \$3,000 if the amount taxable exceeds \$3,000 and does not exceed \$5,000,
- (f) \$985 plus 23% of the amount by which the amount taxable exceeds \$5,000 if the amount taxable exceeds \$5,000 and does not exceed \$7,000,
- (g) \$1,445 plus 25% of the amount by which the amount taxable exceeds \$7,000 if the amount taxable exceeds \$7,000 and does not exceed \$9,000,
- (h) \$1,945 plus 27% of the amount by which the amount taxable exceeds \$9,000 if the amount taxable exceeds \$9,000 and does not exceed \$11,000,
- (i) \$2,485 plus 31% of the amount by which the amount taxable exceeds \$11,000 if the amount taxable exceeds \$11,000 and does not exceed \$14,000,
- (j) \$3,415 plus 35% of the amount by which the amount taxable exceeds \$14,000 if the amount taxable exceeds \$14,000 and does not exceed \$24,000,
- (k) \$6,915 plus 39% of the amount by which the amount taxable exceeds \$24,000 if the amount taxable exceeds \$24,000 and does not exceed \$39,000,
- (l) \$12,765 plus 43% of the amount by which the amount taxable exceeds \$39,000 if the amount taxable exceeds \$39,000 and does not exceed \$60,000,
- (m) \$21,795 plus 47% of the amount by which the amount taxable exceeds \$60,000 if the amount taxable exceeds \$60,000.

1973  
rates

(2) The tax payable by an individual under this Part upon his taxable income or taxable income earned in Canada, as the case may be, (in this subdivision referred to as the "amount taxable") for the 1973 taxation year is

(2). Subsection 32(1), modified

(a) 15% of the amount taxable if the amount taxable does not exceed \$500,

(b) \$75 plus 18% of the amount by which the amount taxable exceeds \$500 if the amount taxable exceeds \$500 and does not exceed \$1,000,

(c) \$165 plus 19% of the amount by which the amount taxable exceeds \$1,000 if the amount taxable exceeds \$1,000 and does not exceed \$2,000,

(d) \$355 plus 20% of the amount by which the amount taxable exceeds \$2,000 if the amount taxable exceeds \$2,000 and does not exceed \$3,000,

(e) \$555 plus 21% of the amount by which the amount taxable exceeds \$3,000 if the amount taxable exceeds \$3,000 and does not exceed \$5,000,

(f) \$975 plus 23% of the amount by which the amount taxable exceeds \$5,000 if the amount taxable exceeds \$5,000 and does not exceed \$7,000,

(g) \$1,435 plus 25% of the amount by which the amount taxable exceeds \$7,000 if the amount taxable exceeds \$7,000 and does not exceed \$9,000,

(h) \$1,935 plus 27% of the amount by which the amount taxable exceeds \$9,000 if the amount taxable exceeds \$9,000 and does not exceed \$11,000,

(i) \$2,475 plus 31% of the amount by which the amount taxable exceeds \$11,000 if the amount taxable exceeds \$11,000 and does not exceed \$14,000,

(j) \$3,405 plus 35% of the amount by which the amount taxable exceeds \$14,000 if the amount taxable exceeds \$14,000 and does not exceed \$24,000,

(k) \$6,905 plus 39% of the amount by which the amount taxable exceeds \$24,000 if the amount taxable exceeds \$24,000 and does not exceed \$39,000,



## Subsection 117(2)

(l) \$12,755 plus 43% of the amount by which the amount taxable exceeds \$39,000 if the amount taxable exceeds \$39,000 and does not exceed \$60,000,

(m) \$21,785 plus 47% of the amount by which the amount taxable exceeds \$60,000 if the amount taxable exceeds \$60,000.

(3) The tax payable by an individual under this Part upon his taxable income or taxable income earned in Canada, as the case may be, (in this subdivision referred to as the "amount taxable") for the 1974 taxation year is

(a) 12% of the amount taxable if the amount taxable does not exceed \$500,

(b) \$60 plus 18% of the amount by which the amount taxable exceeds \$500 if the amount taxable exceeds \$500 and does not exceed \$1,000,

(c) \$150 plus 19% of the amount by which the amount taxable exceeds \$1,000 if the amount taxable exceeds \$1,000 and does not exceed \$2,000,

(d) \$340 plus 20% of the amount by which the amount taxable exceeds \$2,000 if the amount taxable exceeds \$2,000 and does not exceed \$3,000,

(e) \$540 plus 21% of the amount by which the amount taxable exceeds \$3,000 if the amount taxable exceeds \$3,000 and does not exceed \$5,000,

(f) \$960 plus 23% of the amount by which the amount taxable exceeds \$5,000 if the amount taxable exceeds \$5,000 and does not exceed \$7,000,

(g) \$1,420 plus 25% of the amount by which the amount taxable exceeds \$7,000 if the amount taxable exceeds \$7,000 and does not exceed \$9,000,

(h) \$1,920 plus 27% of the amount by which the amount taxable exceeds \$9,000 if the amount taxable exceeds \$9,000 and does not exceed \$11,000,

(i) \$2,460 plus 31% of the amount by which the amount taxable exceeds \$11,000 if the amount taxable exceeds \$11,000 and does not exceed \$14,000,

(j) \$3,390 plus 35% of the amount by which the amount taxable exceeds \$14,000 if the amount taxable exceeds \$14,000 and does not exceed \$24,000,

(3). Subsection 32(1), modified

*Subsection 117(3)*

(k) \$6,890 plus 39% of the amount by which the amount taxable exceeds \$24,000 if the amount taxable exceeds \$24,000 and does not exceed \$39,000,

(l) \$12,740 plus 43% of the amount by which the amount taxable exceeds \$39,000 if the amount taxable exceeds \$39,000 and does not exceed \$60,000,

(m) \$21,770 plus 47% of the amount by which the amount taxable exceeds \$60,000 if the amount taxable exceeds \$60,000.

(4) The tax payable by an individual under this Part upon his taxable income or taxable income earned in Canada, as the case may be, (in this subdivision referred to as the "amount taxable") for the 1975 taxation year is

(a) 9% of the amount taxable if the amount taxable does not exceed \$500,

(b) \$45 plus 18% of the amount by which the amount taxable exceeds \$500 if the amount taxable exceeds \$500 and does not exceed \$1,000,

(c) \$135 plus 19% of the amount by which the amount taxable exceeds \$1,000 if the amount taxable exceeds \$1,000 and does not exceed \$2,000,

(d) \$325 plus 20% of the amount by which the amount taxable exceeds \$2,000 if the amount taxable exceeds \$2,000 and does not exceed \$3,000,

(e) \$525 plus 21% of the amount by which the amount taxable exceeds \$3,000 if the amount taxable exceeds \$3,000 and does not exceed \$5,000,

(f) \$945 plus 23% of the amount by which the amount taxable exceeds \$5,000 if the amount taxable exceeds \$5,000 and does not exceed \$7,000,

(g) \$1,405 plus 25% of the amount by which the amount taxable exceeds \$7,000 if the amount taxable exceeds \$7,000 and does not exceed \$9,000,

(h) \$1,905 plus 27% of the amount by which the amount taxable exceeds \$9,000 if the amount taxable exceeds \$9,000 and does not exceed \$11,000,

(4). Subsection 32(1), modified

## Subsection 117(4)

(i) \$2,445 plus 31% of the amount by which the amount taxable exceeds \$11,000 if the amount taxable exceeds \$11,000 and does not exceed \$14,000,

(j) \$3,375 plus 35% of the amount by which the amount taxable exceeds \$14,000 if the amount taxable exceeds \$14,000 and does not exceed \$24,000,

(k) \$6,875 plus 39% of the amount by which the amount taxable exceeds \$24,000 if the amount taxable exceeds \$24,000 and does not exceed \$39,000,

(l) \$12,725 plus 43% of the amount by which the amount taxable exceeds \$39,000 if the amount taxable exceeds \$39,000 and does not exceed \$60,000,

(m) \$21,755 plus 47% of the amount by which the amount taxable exceeds \$60,000 if the amount taxable exceeds \$60,000.

(5) The tax payable by an individual under this Part upon his taxable income or taxable income earned in Canada, as the case may be, (in this subdivision referred to as the "amount taxable") for the 1976 and subsequent taxation years is

(a) 6% of the amount taxable if the amount taxable does not exceed \$500,

(b) \$30 plus 18% of the amount by which the amount taxable exceeds \$500 if the amount taxable exceeds \$500 and does not exceed \$1,000,

(c) \$120 plus 19% of the amount by which the amount taxable exceeds \$1,000 if the amount taxable exceeds \$1,000 and does not exceed \$2,000,

(d) \$310 plus 20% of the amount by which the amount taxable exceeds \$2,000 if the amount taxable exceeds \$2,000 and does not exceed \$3,000,

(e) \$510 plus 21% of the amount by which the amount taxable exceeds \$3,000 if the amount taxable exceeds \$3,000 and does not exceed \$5,000,

(f) \$930 plus 23% of the amount by which the amount taxable exceeds \$5,000 if the amount taxable exceeds \$5,000 and does not exceed \$7,000,

(5). Subsection 32(1), modified

## Subsection 117(5)

- (g) \$1,390 plus 25% of the amount by which the amount taxable exceeds \$7,000 if the amount taxable exceeds \$7,000 and does not exceed \$9,000,
- (h) \$1,890 plus 27% of the amount by which the amount taxable exceeds \$9,000 if the amount taxable exceeds \$9,000 and does not exceed \$11,000,
- (i) \$2,430 plus 31% of the amount by which the amount taxable exceeds \$11,000 if the amount taxable exceeds \$11,000 and does not exceed \$14,000,
- (j) \$3,360 plus 35% of the amount by which the amount taxable exceeds \$14,000 if the amount taxable exceeds \$14,000 and does not exceed \$24,000,
- (k) \$6,860 plus 39% of the amount by which the amount taxable exceeds \$24,000 if the amount taxable exceeds \$24,000 and does not exceed \$39,000,
- (l) \$12,710 plus 43% of the amount by which the amount taxable exceeds \$39,000 if the amount taxable exceeds \$39,000 and does not exceed \$60,000,
- (m) \$21,740 plus 47% of the amount by which the amount taxable exceeds \$60,000 if the amount taxable exceeds \$60,000.

Special  
table

(6) An individual, other than an individual of a prescribed class, whose amount taxable for a taxation year is \$12,000 or less may, in lieu of the tax under subsection (1), (2), (3), (4) or (5), as the case may be, pay a tax computed in accordance with a prescribed table which shall be prepared in accordance with the following rules:

(6). Subsection 32(2), modified

(a) the table shall be divided into ranges of amounts not exceeding \$10 each and specify the tax payable on every amount taxable within each range; and

(b) the tax payable on amounts taxable within one of the ranges referred to in paragraph (a) shall be the tax under subsection (1), (2), (3), (4) or (5), as the case may be, on the average of the highest and lowest amounts in the range.



Notch  
provision

(7) Where the tax otherwise payable by a taxpayer for a taxation year under this Part is greater than the aggregate of

(a) the tax that would be payable by the taxpayer if the taxpayer could deduct in computing his taxable income for the year a payment described in paragraph 110(1)(c) in respect of any person who would be a dependant (in respect of whom the taxpayer could make a deduction from his income for the year) if that person's income for the year were not in excess of \$1,600, and

(b) the amount by which the income of the person described in paragraph (a) exceeds \$1,600,

the tax otherwise payable for the year under this Part may be reduced to that aggregate.

(7). Subsection 32(8), modified

Idem

(8) Where

(a) the tax otherwise payable by a taxpayer for a taxation year under this Part is greater than it would be if no amount were included in computing the income of his spouse for the year by virtue of subsection 82(1), and

(b) no tax is payable by the spouse for the year,

the tax payable by the taxpayer for the year under this Part may be reduced by the amount included in computing the income of the spouse for the year by virtue of paragraph 82(1)(b).

(8). New

118. (1) Notwithstanding section 117, where, in the case of an individual who was resident in Canada throughout the taxation year immediately preceding a particular taxation year (which particular taxation year is hereafter in this section referred to as the "year of averaging"), any excess remains when

(a) the greater of 110% of his income for the immediately preceding taxation year and 120% of the quotient obtained when

(i) the aggregate of all amounts each of which is the individual's income for a taxation year in the period of such of the consecutive taxation years (not exceeding 4) immediately preceding the year of averaging as were years throughout which he was resident in Canada

is divided by

(ii) the number of years in the period described in subparagraph (i)

is deducted from

(b) the individual's income for the year of averaging,

(which excess is hereafter in this subsection referred to as the "averaging excess"), the tax payable by the individual under this Part upon his amount taxable for the year of averaging is the aggregate of

(c) the amount that would be determined under section 117 for the individual for the year of averaging if his amount taxable for the year were the remainder, if any, obtained when the averaging excess is deducted from the individual's amount taxable for the year computed without regard to this subsection, and

118. (1). New

*Subsection 118(1)*

- (d) 5 times the amount, if any, by which
- (i) the amount that would be determined under section 117 for the individual for the year of averaging if his amount taxable for the year of averaging were the aggregate of the remainder described in paragraph (c) and an amount equal to 1/5 of the lesser of the averaging excess and the individual's amount taxable for the year of averaging

exceeds

- (ii) the amount determined under paragraph (c).

Non-  
resident  
individuals

(2) Notwithstanding section 117, where, in the case of an individual who

(2). New

(a) at no time during a taxation year (in this section referred to as the "year of averaging") and the immediately preceding taxation year was resident in Canada, and

(b) in each of those years, performed the duties of one or more offices or employments in Canada or carried on one or more businesses in Canada,

any excess remains after

(c) the greater of 110% of his income for the immediately preceding taxation year and 120% of the quotient obtained when

- (i) the aggregate of all amounts each of which is the individual's income for a taxation year in the period of such of the consecutive taxation years (not exceeding 4) immediately preceding the year of averaging as were years

(A) throughout which he was not resident in Canada, and

(B) for which he has filed a return of income under this Part

is divided by

- (ii) the number of years in the period described in subparagraph (i),

is deducted from

(d) the individual's income for the year of averaging,

(which excess is hereafter in this subsection referred to as the "averaging excess"), the tax payable by the individual under this Part for the year of averaging is the aggregate of

(e) the amount that would be determined under section 117 for the individual for the year of averaging if his amount taxable for the year were the remainder, if any, obtained when the averaging excess is deducted from the individual's amount taxable for the year computed without regard to this subsection, and

(f) 5 times the amount, if any, by which

(i) the amount that would be determined under section 117 for the individual for the year of averaging if his amount taxable for the year of averaging were the aggregate of the remainder described in paragraph (e) and an amount equal to 1/5 of the lesser of the averaging excess and the individual's amount taxable for the year of averaging

exceeds

(ii) the amount determined under paragraph (e).

Rules  
applicable  
in deter-  
mining  
income

(3) For the purposes of this section the following rules apply:

(a) the income of an individual for a taxation year, at no time during which he was resident in Canada, shall be deemed to be the amount that would be determined under Division D to be his taxable income for the year if subsection 115(1) were read without reference to the words following paragraph (c) thereof;

(b) a taxpayer's income for any taxation year described in paragraph (1)(a) or (2)(c) as a taxation year preceding a year of averaging shall be deemed to be an amount equal to the greater of \$1,600 and his

(3). New



income for the year otherwise determined for the purposes of this Part;

(c) any taxation year included in an “averaging period”, within the meaning assigned that expression in section 119, pursuant to an election made by him under that section that was not revoked by him, shall not be included in the period referred to in paragraph (1)(a) or (2)(c), as the case may be; and

(d) where a taxpayer has died in a year of averaging,

(i) paragraphs (1)(a) and (2)(c) shall be read as if the references therein to “110%” and “120%” were read as references to “100%”, and

(ii) subsections (1) and (2) are not applicable in respect of the year if the taxpayer’s legal representative has made an election under subsection 70(2) in respect of the taxpayer’s income for that year.

Averaging  
for farmers  
and  
fishermen

**119. (1)** Where an individual’s chief source of income has been farming or fishing for a taxation year (in this section referred to as the “year of averaging”) and the 4 immediately preceding years for which he has filed returns of income as required by this Part (in this section referred to as the “preceding years”), if the individual, on or before the day on or before which he was required to file a return of his income for the year of averaging, or on or before the day on or before which he would have been required to file such a return if any tax had been payable by him for the year of averaging, files with the Minister an election in prescribed form, the tax payable under this Part for the year of averaging is an amount determined by the following rules:

(a) ascertain the amount, if any, remaining after deducting from the income for each year of the averaging period (which, in this section, means the year of averaging and the preceding years) all deductions permitted for that year by Division C except the de-

**119. (1).** Subsection 42(1), modified

*Subsection 119(1)*

ductions permitted by section 109 or any amount in respect of a loss for the year immediately following the year of averaging;

(b) determine the amount (in this section referred to as the "average gross income") equal to  $1/5$  of the amount by which

(i) the aggregate of the amounts determined under paragraph (a) for the years in the averaging period,

exceeds

(ii) the aggregate of the amounts that would be deductible in respect of the losses for the taxation years in the averaging period in computing the taxable income for the year immediately following the year of averaging if the individual's income from the same business for that year were the aggregate of the amounts determined under paragraph (a) for the years in the averaging period;

(c) determine the amount (in this section referred to as the "average net income") for each year in the averaging period equal to the average gross income minus the deductions permitted for that year by section 109;

(d) determine the amount (in this section referred to as the "average tax") for each year in the averaging period equal to the tax that would be payable under this Part for the year if the taxable income for the year were the average net income for the year; and

(e) deduct from the aggregate of the average taxes as determined under paragraph (d) for the years in the averaging period the aggregate of the taxes payable under this Part for the preceding years;

## Subsection 119(1)

and the remainder obtained under paragraph (e) is the tax payable under this Part for the year of averaging and no further deduction may be made therefrom under any other provision of this Part.

## Refunds

(2) Where this section is applicable to the computation of an individual's tax for a taxation year and the aggregate of the taxes payable under this Part for the preceding years exceeds the aggregate of the average taxes as determined under paragraph (1)(d) for the years in the averaging period, the excess shall be deemed to be an overpayment made when the notice of assessment for the year of averaging was mailed.

(2). Subsection 42(2), modified

## Assessment

(3) The provisions of this Part relating to the assessment of tax, interest and penalties apply *mutatis mutandis* to an assessment whereby, for the purposes of this section, it is determined by the Minister that no tax is payable under this Part for the year of averaging or that an overpayment has been made as described in subsection (2).

(3). Subsection 42(2a)

## Election

(4) An election under subsection (1) is a nullity unless the earliest of the "preceding years" is one of the 6 years immediately prior to the year of averaging.

(4). Subsection 42(3)

## Idem

(5) An election filed under subsection (1) may be revoked by the individual

(5). Subsection 42(4), modified

(a) at any time before the Minister has first assessed his tax for the year of averaging, or

(b) during the 30 days' period immediately following any assessment by the Minister of his tax for the year of averaging.

## Section 119

|  |   |                                 |
|--|---|---------------------------------|
| Idem   | (6) No election may be filed under this section for a taxation year if the averaging period resulting from the election would include a year that was included in an averaging period resulting from a previous election that has not been revoked under subsection (5).  | (6). Subsection 42(5)           |
| Rents or trust income from farming or fishing                                  | (7) For the purposes of subsection (1),<br>(a) rents dependent on the lessee's gross production in the course of farming or fishing, and<br>(b) income from a trust or estate to the extent that it can reasonably be regarded as having been derived from farming or fishing, shall be deemed to be income from farming or fishing.  | (7). Subsection 42(6)           |
| Losses   | (8) Any amount in respect of a loss deducted in making a calculation under paragraph (1)(a) shall, for the purpose of section 111, be deemed to have been deducted in respect of that loss under this Act; and any amount in respect of a loss included in computing an aggregate for the purpose of subparagraph (1)(b)(ii) shall, for the purpose of section 111, be deemed to have been deductible in respect of that loss under this Act. | (8). Subsection 42(7)           |
| Addition to tax re income not earned in a province                             | <b>120.</b> (1) There shall be added to the tax otherwise payable under this Part by an individual for a taxation year an amount that bears the same relation to 30% of the tax otherwise payable under this Part by him for the year that<br>(a) his income for the year, other than his income earned in the year in a province, bears to<br>(b) his income for the year.   | <b>120.</b> (1). New            |
| Deduction from tax re income earned in province providing schooling allowances | (2) There may be deducted from the tax otherwise payable under this Part by an individual for a taxation year an amount that bears the same relation to 3% of the tax otherwise payable under this Part by him for the year that<br>(a) his income earned in the year in a province providing schooling allowances,   | (2). Subsection 33(1), modified |



within the meaning of the *Youth Allowances Act*,

bears to

(b) his income for the year.

(3) A reference in subsections (1) and (2) to "his income for the year" means

(a) in the case of an individual to whom section 114 applies who was resident in Canada during part of the year and during some other part of the year was not resident in Canada, the amount that would be determined under that section to be his taxable income for the year if that section were read without reference to the words following paragraph (b) thereof; and

(b) in the case of an individual to whom section 115 applies who was not resident in Canada at any time in the taxation year, the amount that would be determined under Division D to be his taxable income for the year if subsection 115(1) were read without reference to the words following paragraph (c) thereof.

(4) In this section,

(a) "income earned in the year in a province" means amounts determined under rules prescribed for the purpose by regulations made on the recommendation of the Minister of Finance;

(b) "province" does not include the Northwest Territories or the Yukon Territory; and

(c) "tax otherwise payable under this Part" means

(i) where a taxpayer's tax for the taxation year in respect of which the expression is being applied is computed in accordance with the table prescribed under subsection 117(6), the tax so computed, and  
(ii) in any other case the amount that, but for this section, would be the tax payable by a taxpayer under this Part for the taxation year in respect of which the expression is being applied if the taxpayer were not entitled to any deduction under section 126 or 127.

(3). Subsection 33(2), modified

(4). Subsection 33(3), modified

"Income for the year" defined

Definitions

"Income earned in the year in a province"

"Province"

"Tax otherwise payable under this Part"

Deduction  
in respect  
of taxable  
dividends

121. There may be deducted from the tax otherwise payable under this Part by an individual for a taxation year 4/5 of any amount that is, by paragraph 82(1)(b), required to be included in computing his income for the year.

121. New

Tax  
payable  
by *inter  
vivos* trust

122. (1) Notwithstanding section 117, the amount determined under that section to be the tax payable under this Part by an *inter vivos* trust other than a mutual fund trust upon its amount taxable for a taxation year is the greater of

122. (1). New

(a) 39% of its amount taxable for the year, and

(b) the amount otherwise determined thereunder to be its tax payable under this Part upon its amount taxable for the year.

Application  
of ss. (1)

(2) Subsection (1) is not applicable for a taxation year of an *inter vivos* trust other than a mutual fund trust if the trust

(2). New

(a) was established before June 18, 1971,

(b) was resident in Canada on June 18, 1971 and without interruption thereafter until the end of the year,

(c) did not carry on any active business in the year,

(d) has not received any property by way of gift since June 18, 1971, and

(e) has not, after June 18, 1971, incurred

(i) any debt, or

(ii) any other obligation to pay an amount,

to, or guaranteed by, any person with whom any beneficiary of the trust was not dealing at arm's length.

Tax pay-  
able by  
mutual  
fund trust

(3) Notwithstanding subsection 117, the amount determined under that section to be the tax payable under this Part by a mutual fund trust upon its amount taxable for a taxation year is the aggregate of

(3). New

## (a) 39% of the lesser of

(i) the amount, if any, by which its taxable capital gains for the year from dispositions of property exceeds the aggregate of its allowable capital losses for the year from dispositions of property and the amount, if any, deductible under paragraph 111(1)(b) from its income for the year for the purpose of computing its taxable income, and

(ii) its taxable income for the year, and

## (b) the greater of

(i) 39% of the amount, if any, by which the amount determined under subparagraph (a)(ii) exceeds the amount determined under subparagraph (a)(i), and

(ii) the amount that would, but for this subsection, be determined under section 117 to be its tax payable under this Part upon its amount taxable for the year if its amount taxable were equal to the amount of the excess described in subparagraph (i).

Subdivision b – Rules Applicable  
To Corporations

Rate for  
corporations

123. The tax payable by a corporation under this Part upon its taxable income or taxable income earned in Canada, as the case may be, (in this section referred to as the “amount taxable”) for a taxation year is, except where otherwise provided, 50% of the amount taxable.

123. Subsection 39(1), modified

Deduction  
from cor-  
poration  
tax

124. (1) There may be deducted from the tax otherwise payable by a corporation under this Part for a taxation year an amount equal to 10% of the corporation’s taxable income earned in the year in a province other than the Northwest Territories or the Yukon Territory.

124. (1). Subsection 40(1)

## Section 124

Idem

(2) There may be deducted from the tax otherwise payable under this Part for a taxation year ending after 1976 by a corporation resident in Canada, an amount equal to 15% of the lesser of

(a) its taxable production profits from mineral resources earned in the year in a province, and

(b) the amount, if any, by which its taxable income earned in the year in a province exceeds the aggregate of

(i) 4 times the amount, if any, deductible under section 125 from the tax for the year otherwise payable by it under this Part, and

(ii) its Canadian investment income and its foreign investment income (within the meanings assigned by subsection 129(4)) for the year.

(2). New

Crown  
agents

(3) No deduction may be made under this section from the tax otherwise payable under this Part for a taxation year by a corporation specified in Schedule D to the *Financial Administration Act* that is an agent of Her Majesty.

(3). Subsection 84(7)

Definitions

(4) In this section,

"Taxable  
income  
earned in  
the year in  
a province"

(a) "taxable income earned in the year in a province" means the amount determined under rules prescribed for the purpose by regulations made on the recommendation of the Minister of Finance; and

"Taxable  
production  
profits  
earned in  
the year  
in a  
province"

(b) "taxable production profits from mineral resources earned in the year in a province" means the amount determined under rules prescribed for the purpose by regulations made on the recommendation of the Minister of Finance.

(4). Subsection 40(2), modified

Small  
business  
deduction

125. (1) There may be deducted from the tax otherwise payable under this Part for a taxation year by a corporation that was, throughout the year, a Canadian-controlled private corporation, an amount equal to 25% of the least of

125. (1). New



## Subsection 125(1)

- (a) the amount, if any, by which
- (i) the aggregate of all amounts each of which is the income of the corporation for the year from an active business carried on in Canada,

exceeds

- (ii) the aggregate of all amounts each of which is a loss of the corporation for the year from an active business carried on in Canada,
- (b) the amount, if any, by which the corporation's taxable income for the year exceeds the aggregate of
- (i) 10/4 of the aggregate of amounts deducted under subsection 126(1) from the tax for the year otherwise payable by it under this Part, and
- (ii) 2 times the aggregate of amounts deducted under subsection 126(2) from the tax for the year otherwise payable by it under this Part,
- (c) the corporation's business limit for the year, and
- (d) the amount, if any, by which the corporation's total business limit for the year exceeds its cumulative deduction account at the end of the immediately preceding taxation year.

Amount of  
business  
limit and  
total  
business  
limit

- (2) For the purposes of this section,
- (a) a corporation's "business limit" for a taxation year is \$50,000, and
- (b) its "total business limit" for a taxation year is \$400,000, unless the corporation is associated in the year with one or more other Canadian-controlled private corporations in which case, except as otherwise provided in this section, its business limit for the year is nil and its total business limit for the year is nil.

(2). New

Associated  
corpora-  
tions

- (3) Notwithstanding subsection (2), if
- (a) all of the Canadian-controlled private corporations of a group that are associated with each other in a taxation year have filed with the Minister in prescribed form an agreement whereby, for the purposes of this section,

(3). Subsection 39(3), modified

(i) they allocate an amount to one or more of them for the taxation year and the amount so allocated or the aggregate of the amounts so allocated, as the case may be, is \$50,000, and

(ii) they allocate an amount to one or more of them for the taxation year and the amount so allocated or the aggregate of the amounts so allocated, as the case may be, is \$400,000, and

(b) the amount so allocated under subparagraph (a)(ii) to each such corporation for the taxation year is not less than that corporation's cumulative deduction account at the end of the immediately preceding taxation year,

the business limit for the year of each of the corporations is the amount so allocated to it under paragraph (a) and the total business limit for the year of each of the corporations is the amount so allocated to it under paragraph (b).

Failure to  
file  
agreement

(4) If any of the Canadian-controlled private corporations of a group that are associated with each other in a taxation year has failed to file with the Minister an agreement as contemplated by subsection (3) within 30 days after notice in writing by the Minister has been forwarded to any of them that such an agreement is required for the purpose of any assessment of tax under this Part, the Minister shall, for the purpose of this section,

(a) allocate an amount to one or more of them for the taxation year, which amount or the aggregate of which amounts, as the case may be, shall equal \$50,000, and

(b) allocate an amount to one or more of them for the taxation year, which amount or the aggregate of which amounts, as the case may be, shall equal \$400,000,

and in any such case, notwithstanding subsection (2), the business limit for the year of each of the corporations is the amount so allocated to it under paragraph (a) and the total business limit for the year of each of the corporations is the amount so allocated to it under paragraph (b).

(4). Subsection 39(3a), modified

Where two  
taxation  
years ending  
in same  
year

(5) Where a Canadian-controlled private corporation has 2 taxation years ending in the same calendar year (otherwise than by reason of a change made in the usual and accepted fiscal period of the corporation) and is associated in each of those taxation years with another Canadian-controlled private corporation that has only one taxation year ending in the calendar year, notwithstanding anything in this section, the business limit of the first-mentioned corporation under this Part for the second taxation year ending in the calendar year is nil.

(5). Subsection 39(7), modified

Definitions

"Canadian-controlled private corporation"

"Cumulative deduction account"

(6) In this section,

(a) "Canadian-controlled private corporation" means a private corporation that is a Canadian corporation other than a corporation controlled, directly or indirectly in any manner whatever, by one or more non-resident persons, by one or more public corporations or by any combination thereof; and

(b) "cumulative deduction account" of a corporation at the end of any taxation year means the amount, if any, by which the aggregate of

(i) the corporation's taxable incomes for taxation years commencing after 1971 and ending not later than the end of the particular year, or

(ii)  $\frac{4}{3}$  of the amounts deductible under section 112 from the corporation's incomes for those years

exceeds the aggregate of

(iii)  $\frac{4}{3}$  of the taxable dividends paid by the corporation in those years,

(iv) 4 times the amount, if any, by which the aggregate of all amounts of tax under Part V payable by the corporation for those years exceeds the aggregate of all amounts of tax under that Part refundable to the corporation for those years, and

(6). New

(v) 4 times the amount, if any, by which the corporation's refundable dividend tax on hand (within the meaning assigned by subsection 129(3)) at the end of the particular year exceeds its dividend refund (within the meaning assigned by subsection 129(1)) for the particular year.

Subdivision c – Rules Applicable to  
All Taxpayers

Foreign  
tax  
deduction

126. (1) A taxpayer who was resident in Canada at any time in a taxation year may deduct from the tax for the year otherwise payable under this Part an amount equal to

(a) such part of any non-business-income tax paid by him for the year to the government of a country other than Canada (except, where the taxpayer is a corporation, any such tax or part thereof that may reasonably be regarded as having been paid by the taxpayer in respect of income from a share of the capital stock of a foreign affiliate of the taxpayer) as the taxpayer may claim,

not exceeding, however,

(b) that proportion of the tax for the year otherwise payable under this Part that

(i) the aggregate of the taxpayer's incomes from sources in that country

(A) for the year, if section 114 is not applicable, or

(B) if section 114 is applicable, for the period or periods in the year referred to in paragraph (a) thereof,

on the assumption that

(C) no businesses were carried on by him, and

126. (1). Subsection 41(1), modified



*Subsection 126(1)*

(D) where the taxpayer is a corporation, it had no income from shares of the capital stock of a foreign affiliate of the taxpayer,

is of

(ii) the taxpayer's income

(A) for the year, if section 114 is not applicable, or

(B) if section 114 is applicable, for the period or periods in the year referred to in paragraph (a) thereof,

minus any amounts deductible under paragraph 111(1)(b) or section 112 or 113 for the year or such period or periods, as the case may be.

Idem

(2) Where a taxpayer who was resident in Canada at any time in a taxation year carried on business in the year in a country other than Canada, he may deduct from the tax for the year otherwise payable by him under this Part an amount equal to

(a) such part of the aggregate of the business-income tax paid by him for the year in respect of businesses carried on by him in that country and his foreign-tax carry-over in respect of that country for the year as the taxpayer may claim

not exceeding, however,

(b) that proportion of the tax for the year otherwise payable by him under this Part that

(i) the taxpayer's incomes

(A) for the year, if section 114 is not applicable, or

(B) if section 114 is applicable, for the period or periods in the year referred to in paragraph (a) thereof,

from businesses carried on by him in that country

is of

(ii) the taxpayer's income

(A) for the year, if section 114 is not applicable, or

(B) if section 114 is applicable, for the period or periods in the year referred to in paragraph (a) thereof,

(2). Subsection 41(1), modified

## Subsection 126(2)

minus any amounts deductible under paragraph 111(1)(b) or section 112 or 113 for the year or such period or periods, as the case may be.

Employees  
of interna-  
tional or-  
ganizations

(3) In addition to any other deduction permitted by this section, an individual who was resident in Canada at any time in a taxation year may deduct from the tax for the year otherwise payable under this Part an amount equal to the least of

(a) an amount paid to an organization, as defined for the purposes of section 3 of the *Privileges and Immunities (International Organizations) Act*, by whom he was employed, in payment of a levy (the proceeds of which are used to defray expenses of the organization) computed by reference to the remuneration received by him in the year from the organization in a manner similar to the manner in which income tax is computed,

(b) that proportion of the tax for the year otherwise payable under this Part that

(i) the remuneration by reference to which the levy was computed,

is of

(ii) the taxpayer's income for the year, and

(c) that proportion of the amount referred to in paragraph (a) so paid to the organization that

(i) the amount included in computing the taxpayer's income for the year from employment with the organization

is of

(ii) the amount that would be included in computing the taxpayer's income for the year from employment with the organization if this Act were read without reference to paragraph 81(1)(a).

(3). Subsection 41(4), modified

Portion of  
foreign tax  
not  
included

(4) For the purposes of this Act, an income or profits tax paid to the government of a country other than Canada by a person resident in Canada does not include a tax, or that portion of a tax, imposed by that country that

(4). New

*Subsection 126(4)*

would not be imposed if the person were not entitled under this section or under section 113 to a deduction in respect thereof.

Foreign  
tax

(5) A tax paid to the government of a country other than Canada may, subject to prescribed conditions, be deemed, for the purposes of this Act, to be an income or profits tax paid to the government of that country.

(5). Subsection 41(6), modified

Construc-  
tion of  
ss. (1)  
and (2)

(6) For greater certainty, where a taxpayer's income for a taxation year is in whole or in part from sources in more than one country other than Canada, subsections (1) and (2) shall be read as providing for separate deductions in respect of each of the countries other than Canada.

(6). Subsection 41(2)

Definitions

(7) In this section,

(7). New

"Business-  
income  
tax"

(a) "business-income tax" paid by a taxpayer for a taxation year in respect of businesses carried on by him in a country other than Canada (in this paragraph referred to as the "business country") means such portion of any income or profits tax paid by him for the year to the government of any country other than Canada or to a state, province or other political subdivision of any such country as

(i) may reasonably be regarded as tax in respect of the income of the taxpayer from any business carried on by him in the business country, and

(ii) was not deductible by virtue of subsection 20(12) in computing the taxpayer's income for the year;

(b) "foreign-tax carryover" of a taxpayer in respect of a country for a taxation year means the lesser of

(i) the amount, if any, by which

(A) the amount determined under paragraph (2)(a) in respect of the taxpayer for the immediately preceding taxation year in respect of that country,

exceeds

"Foreign-  
tax  
carryover"

(B) the amount determined under paragraph (2)(b) in respect of the taxpayer for the immediately preceding taxation year in respect of that country, and

(ii) the aggregate of all amounts each of which is an amount in respect of one of the 5 immediately preceding taxation years, equal to the amount, if any, by which

(A) the business-income tax paid by him for the year in respect of businesses carried on by him in that country

exceeds

(B) the amount determined under paragraph (2)(b) in respect of the taxpayer for the year in respect of that country;

(c) “non-business-income tax” paid by a taxpayer for a taxation year to the government of a country other than Canada means such portion of any income or profits tax paid by him for the year to the government of that country, or to the government of a state, province or other political subdivision of that country, as

(i) was not included in computing the taxpayer’s business-income tax for the year in respect of any business carried on by him in any country other than Canada, and

(ii) was not deductible by virtue of subsection 8(9) or subsection 20(11) or (12) in computing the taxpayer’s income for the year

plus such additional amount as may be prescribed in respect of income or profits tax paid to the government of that country on a dividend received by the taxpayer or by a foreign affiliate of the taxpayer; and

(d) “tax for the year otherwise payable under this Part” means

(i) in paragraphs (1)(b) and (3)(b), the tax for the taxation year otherwise payable under this Part before making any deduction under section 121, subsection 124(2), section 125, section 127 or this section, and

“Non-business-income tax”

“Tax for the year otherwise payable under this Part”



## Subsection 126(7)

(ii) in paragraph (2)(b), the tax for the taxation year otherwise payable under this Part before making any deduction under subsection 120(2) or section 121, 124, 125, 127 or this section or by virtue of section 6 of the *Established Programs (Interim Arrangements) Act*.

Logging  
tax  
deduction

127. (1) There may be deducted from the tax otherwise payable by a taxpayer under this Part for a taxation year an amount equal to the lesser of

(a)  $\frac{2}{3}$  of any logging tax paid by the taxpayer to the government of a province in respect of income for the year from logging operations in the province, and

(b)  $6\frac{2}{3}\%$  of the taxpayer's income for the year from logging operations in the province referred to in paragraph (a),

except that in no case shall the aggregate of amounts in respect of all provinces that would otherwise be deductible under this section from the tax otherwise payable by the taxpayer under this Part for the year exceed  $6\frac{2}{3}\%$  of the taxpayer's taxable income for the year or taxable income earned in Canada for the year, as the case may be, minus, where the taxation year ends after 1975, the lesser of

(c) the amount, if any, in respect of the taxpayer determined under paragraph 124(2)(a) for the year, and

(d) the amount, if any, in respect of the taxpayer determined under paragraph 124(2)(b) for the year.

127. (1). Subsection 41A(1), modified

Definitions  
"Income for  
the year  
from logging  
operations  
in the  
province"

(2) In subsection (1),

(a) "income for the year from logging operations in the province" has the meaning assigned by regulation; and

(2). Subsection 41A(2), modified

*Subsection 127(2)*

"Logging  
tax"

(b) "logging tax" means a tax imposed by the legislature of a province that is declared by regulation to be a tax of general application on income from logging operations.

DIVISION F – SPECIAL RULES APPLICABLE  
IN CERTAIN CIRCUMSTANCES

*Bankruptcies*

Where  
corporation  
bankrupt

128. (1) Where a corporation has become a bankrupt, the following rules are applicable:

(a) the trustee in bankruptcy shall be deemed to be the agent of the bankrupt for all purposes of this Act;

(b) the estate of the bankrupt shall be deemed not to be a trust or an estate for the purposes of this Act;

(c) the income and the taxable income of the corporation for any taxation year of the corporation during which it was a bankrupt and for any subsequent year shall be calculated as if

(i) the property of the bankrupt did not pass to and vest in the trustee in bankruptcy on the receiving order being made or the assignment filed but remained vested in the bankrupt, and

(ii) any dealing in the estate of the bankrupt or any act performed in the carrying on of the business of the bankrupt estate by the trustee was done as agent on behalf of the bankrupt and any income of the trustee from such dealing or carrying on is income of the bankrupt and not of the trustee;

(d) a taxation year of the corporation shall be deemed to have commenced on the day the corporation became a bankrupt and a taxation year of the corporation that would otherwise have ended after the corporation became a bankrupt shall be deemed to have ended on the day immediately before the day on which the corporation became a bankrupt;

128. (1). Subsection 65A(1), modified

(e) where, in the case of any taxation year of the corporation ending during the period the corporation is a bankrupt, the corporation fails to pay any tax payable by the corporation under this Act for any such year, the corporation and the trustee in bankruptcy are jointly and severally liable to pay the tax, except that

(i) the trustee is only liable to the extent of the property of the bankrupt in his possession, and

(ii) payment by either of them shall discharge the joint obligation;

(f) in the case of any taxation year of the corporation ending during the period the corporation is a bankrupt, the corporation shall be deemed not to be associated with any other corporation in the year; and

(g) where an absolute order of discharge is granted in respect of the corporation, for the purposes of section 111 any loss of the corporation for any taxation year preceding the year in which the order of discharge was granted is not deductible by the corporation in computing its taxable income for the taxation year of the corporation in which the order was granted or any subsequent year.

Where  
individual  
bankrupt

(2) Where an individual has become a bankrupt, the following rules are applicable:

(a) the trustee in bankruptcy shall be deemed to be the agent of the bankrupt for all purposes of this Act;

(b) the estate of the bankrupt shall be deemed not to be a trust or an estate for the purposes of this Act;

(c) the income and the taxable income of the individual for any taxation year during which he was a bankrupt and for any subsequent year shall be calculated as if

(2). Subsection 65A(2), modified

(i) the property of the bankrupt did not pass to and vest in the trustee in bankruptcy on the receiving order being made or the assignment filed but remained vested in the bankrupt, and

(ii) any dealing in the estate of the bankrupt or any act performed in the carrying on of the business of the bankrupt estate by the trustee was done as agent on behalf of the bankrupt and any income of the trustee from such dealing or carrying on is income of the bankrupt and not of the trustee;

(d) a taxation year of the individual shall be deemed to have commenced on the day in the calendar year that the individual became a bankrupt and his taxation year that would otherwise have ended on the last day of that calendar year shall be deemed to have ended on the day immediately before the day on which the individual became a bankrupt;

(e) where the individual was a bankrupt at any time in a calendar year the trustee shall, within 90 days from the end of the year, file a return with the Minister, in prescribed form, on behalf of the individual of the individual's income for any taxation year occurring in the calendar year computed as if

(i) the only income of the individual for such taxation year was the income for the year, if any, arising from dealings in the estate of the bankrupt or acts performed in the carrying on of the business of the bankrupt by the trustee, and

(ii) in computing taxable income, the individual was not entitled to any deduction permitted by Division C for such taxation year except any deduction permitted by section 111,

and the trustee is liable to pay any tax payable under this Part by the individual in respect of such taxable income for such taxation year;



(f) notwithstanding paragraph (e), the individual shall file a separate return of his income for any taxation year during which he was a bankrupt, computed as if

(i) the income required to be reported in respect of the year by the trustee under paragraph (e) was not the income of the individual,

(ii) in computing income, the individual was not entitled to deduct any loss sustained by the trustee in the year in dealing with the estate of the bankrupt or in carrying on the business of the bankrupt, and

(iii) in computing taxable income, the individual was not entitled to any deduction under section 111 with respect to any losses for a previous taxation year,

and the individual is liable to pay any tax payable under this Part by him in respect of such taxable income for the taxation year;

(g) where an absolute order of discharge is granted in respect of the individual, for the purpose of section 111 any loss of the individual for a taxation year preceding the year in which the order of discharge was granted is not deductible by the individual in computing his taxable income for the taxation year in which the order was granted or any subsequent year; and

(h) where, in a taxation year commencing after an order of discharge has been granted in respect of the individual, the trustee deals in the estate of the individual who was a bankrupt or performs any act in the carrying on of the business of such individual, paragraphs (e), (f) and (g) shall apply as if the individual were a bankrupt in the year.

"Bankrupt"  
and "estate  
of the  
bankrupt"  
defined

(3) In this section, "bankrupt" and "estate of the bankrupt" have the meanings assigned by the *Bankruptcy Act*.

(3). Subsection 65A(3)

*Private Corporations*

Dividend  
refund to  
private  
corporation

129. (1) Where a corporation was, throughout a taxation year, a private corporation, if a return of its income for the year has been made within 4 years from the end of the year the Minister

(a) may, upon mailing the notice of assessment for the year, refund without application therefor an amount (in this Act referred to as its "dividend refund" for the year) equal to the lesser of

(i)  $\frac{1}{3}$  of all taxable dividends paid by it in the year on shares of its capital stock, and

(ii) its refundable dividend tax on hand at the end of the year; and

(b) shall make such a refund after mailing the notice of assessment if application therefor has been made in writing by the corporation within 4 years from the end of the year.

129. (1). New

Applica-  
tion to  
other  
liability

(2) Instead of making a refund that might otherwise be made under subsection (1), the Minister may, where the corporation is liable or about to become liable to make any payment under this Act, apply the amount that would otherwise be refundable to that other liability and notify the corporation of that action.

(2). New

"Refunda-  
ble dividend  
tax on  
hand"

(3) In this section, "refundable dividend tax on hand" of a private corporation at the end of a taxation year means the aggregate of amounts each of which is an amount in respect of that or any previous taxation year during or after which it last became a private corporation, equal to the aggregate of the tax under Part IV payable by it for the year and the least of

(3). New

(a) 25% of the amount, if any, by which the aggregate of its Canadian investment income for the year and its foreign investment income for the year exceeds the amount deductible under paragraph 111(1)(b) from the corporation's income for the year,

(b) the amount, if any, by which the aggregate of

(i) 25% of the corporation's Canadian investment income for the year, and

(ii) the amount, if any, by which 40% of the corporation's foreign investment income for the year exceeds the aggregate of amounts deducted under subsection 126(1) from the tax for the year otherwise payable by it under this Part,

exceeds 25% of the amount deductible under paragraph 111(1)(b) from the corporation's income for the year,

(c) 25% of the amount, if any, by which the corporation's taxable income for the year exceeds the aggregate of

(i) 4 times the amount, if any, deductible under section 125,

(ii) 10/4 of the aggregate of amounts deducted under subsection 126(1), and

(iii) 2 times the aggregate of amounts deducted under subsection 126(2)

from the tax for the year otherwise payable by it under this Part, and

(d) the amount, if any, by which the tax for the year otherwise payable by it under this Part exceeds the aggregate of

(i) the amount, if any, deductible under subsection 124(2), and

(ii) the amount, if any, deductible under section 127

from the tax for the year otherwise payable by it under this Part,

minus the aggregate of the corporation's dividend refunds for previous taxation years.

«Canadian  
investment  
income»  
and  
«foreign  
investment  
income»  
defined

(4) In subsection (3),

(a) "Canadian investment income" of a corporation for a taxation year means the amount, if any, by which the aggregate of

(i) the amount, if any, by which the aggregate of such of the corporation's taxable capital gains for the year from dispositions of property as may reasonably be considered to be income from sources in Canada exceeds the aggregate of such of the corporation's allowable capital losses for the year from dispositions of property as may reasonably be considered to be losses from sources in Canada,

(ii) all amounts each of which is the corporation's income for the year (other than exempt income or any dividend the amount of which was deductible under section 112 from its income for the year) from a source in Canada that is a property, determined, for greater certainty, after deducting all outlays and expenses deductible in computing the corporation's income for the year to the extent that they may reasonably be regarded as having been made or incurred for the purpose of earning the income from that property,

(iii) all amounts each of which is the corporation's income for the year (other than exempt income) from a source in Canada that is a business other than an active business, determined, for greater certainty, after deducting all outlays and expenses deductible in computing the corporation's income for the year to the extent that they may reasonably be regarded as having been made or incurred for the purpose of earning the income from that business,

exceeds the aggregate of amounts each of which is a loss of the corporation for the year from a source in Canada that is a property or business other than an active business; and

(4). New



(b) “foreign investment income” of a corporation for a taxation year means the amount, if any, by which

(i) the amount that would be determined under paragraph (a) in respect of the corporation for the year if the references in paragraph (a) to “in Canada” were read as references to “outside Canada”,

exceeds

(ii) the aggregate of all amounts deductible under section 113 from the corporation’s income for the year.

### *Investment Corporations*

Deduction  
from tax

**130. (1)** A corporation that was, throughout a taxation year, an investment corporation may deduct from the tax otherwise payable by it under this Part for the year an amount equal to 25% of the amount, if any, by which its taxable income for the year exceeds its taxed capital gains for the year.

**130. (1).** Section 69, modified

Applica-  
tion of  
ss. 131(1)  
to (3)

(2) Where a corporation was, throughout a taxation year, an investment corporation other than a mutual fund corporation, subsections 131(1) to (3) are applicable in respect of the corporation for the year

(2). New

(a) as if the corporation had been a mutual fund corporation throughout that and all previous taxation years ending after 1971 throughout which it was an investment corporation, and

(b) as if its capital gains redemptions for that and all previous taxation years ending after 1971, throughout which it would, but for the assumption made by paragraph (a), not have been a mutual fund corporation, were nil.

## Section 130

Meaning of expressions "investment corporation" and "taxed capital gains"

(3) For the purposes of this section,

(a) a corporation is an investment corporation throughout any taxation year in respect of which the expression is being applied if it complied with the following conditions:

(i) it was throughout the year a Canadian corporation that was a public corporation,

(ii) at least 80% of its property throughout the year consisted of shares, bonds, marketable securities or cash,

(iii) not less than 95% of its income for the year was derived from, or from dispositions of, investments described in subparagraph (ii),

(iv) not less than 85% of its gross revenue for the year was from sources in Canada,

(v) not more than 25% of its gross revenue for the year was from interest,

(vi) at no time in the year did more than 10% of its property consist of shares, bonds or securities of any one corporation or debtor other than Her Majesty in right of Canada or of a province or a Canadian municipality,

(vii) none of its shareholders at any time in the year held more than 25% of the issued shares of the capital stock of the corporation, and

(viii) an amount not less than 85% of the aggregate of

(A) 75% of the amount, if any, by which its taxable income for the year exceeds its taxed capital gains for the year, and

(B) any taxable dividends received by it in the year to the extent of the amount thereof deductible under section 112 or 113 from its income for the year,

(less any dividends or interest received by it in the form of shares, bonds or other securities that had not been sold before the end of the year) was distributed to its shareholders before the end of the year; and

(3). Subsection 69(3), modified

(b) the amount of the taxed capital gains of a taxpayer for a taxation year is the amount, if any, by which

(i) its taxable capital gains for the year from dispositions of property

exceeds

(ii) the aggregate of its allowable capital losses for the year from dispositions of property and the amount, if any, deductible under paragraph 111(1)(b) for the purpose of computing its taxable income for the year.

### *Mutual Fund Corporations*

Election  
re capital  
gains  
dividend

**131. (1)** Where at any particular time after 1971 a dividend has become payable by a corporation that was, throughout the taxation year in which the dividend became payable, a mutual fund corporation, to shareholders of any class of shares of its capital stock, if the corporation so elects in respect of the full amount of the dividend, in prescribed manner and prescribed form and at or before the particular time or the first day on which any part of the dividend was paid if that day is earlier than the particular time,

(a) the dividend shall be deemed to be a capital gains dividend to the extent that it does not exceed the corporation's capital gains dividend account at the particular time; and

(b) notwithstanding anything in this Act, any amount received by a taxpayer in a taxation year as, on account or in lieu of payment of, or in satisfaction of the dividend shall not be included in computing his income for the year as income from a share of the capital stock of the corporation, but shall be deemed to be a capital gain of the taxpayer for the year from the disposition of capital property.

**131. (1).** New

## Section 131

Capital  
gains  
refund to  
mutual  
fund  
corpora-  
tion

(2) Where a corporation was, throughout a taxation year, a mutual fund corporation, if a return of its income for the year has been made within 4 years from the end of the year the Minister

(a) may, upon mailing the notice of assessment for the year, refund without application therefor an amount (in this section referred to as its "capital gains refund" for the year) equal to the lesser of

(i) 20% of the aggregate of

(A) all capital gains dividends paid by the corporation in the year, and

(B) its capital gains redemptions for the year, and

(ii) the corporation's refundable capital gains tax on hand at the end of the year; and

(b) shall make such a refund after mailing the notice of assessment if application therefor has been made in writing by the corporation within 4 years from the end of the year.

(2). New

Application  
to other  
liability

(3) Instead of making a refund that might otherwise be made under subsection (2), the Minister may, where the corporation is liable or about to become liable to make any payment under this Act, apply the amount that would otherwise be refunded to that other liability and notify the corporation of that action.

(3). New

Application  
of s. 84

(4) Section 84 does not apply to deem a dividend to have been paid by a corporation to any of its shareholders, or to deem any of the shareholders of a corporation to have received a dividend on any shares of the capital stock of the corporation, if at the time the dividend would, but for this subsection, be deemed by section 84 to have been so paid or received, as the case may be, the corporation was a mutual fund corporation.

(4). New



## Section 131

(5). New

(5) A corporation that was, throughout a taxation year, a mutual fund corporation other than an investment corporation shall, for the purposes of paragraph 87(2)(aa), section 129 and Part IV, be deemed to have been a private corporation throughout the year, except that

(a) for the purposes of section 129 its refundable dividend tax on hand at the end of the year shall be deemed to be the amount, if any, by which

(i) the aggregate of amounts each of which is an amount in respect of the year or any previous taxation year throughout which it is deemed by this subsection to have been a private corporation, equal to the tax under Part IV payable by it for that year,

exceeds

(ii) the aggregate of amounts each of which is the corporation's dividend refund for any previous taxation year described in subparagraph (i); and

(b) in its application to the corporation in respect of the year, subsection 186(1) shall be read without reference to paragraph (b) thereof.

Dividend  
referred  
to mutual  
fund  
corporation

(6) In this section,

(a) "capital gains redemptions" of a mutual fund corporation for a taxation year means that proportion of

(i) the aggregate of

(A) 5 times its refundable capital gains tax on hand at the end of the year,  
and

Definitions

"Capital  
gains  
redemp-  
tions"

(6). New

*Subsection 131(6)*

(B) the amount, if any, by which the fair market value at the end of the year of all of the issued shares of its capital stock exceeds the aggregate of the cost amounts to it at the end of the year of all of its properties and the amount of any money of the corporation on hand at that time,

that

(ii) the aggregate of amounts paid by it in the year on the redemption of shares of its capital stock

is of

(iii) the aggregate of the fair market value at the end of the year of all of the issued shares of its capital stock and the amount determined under subparagraph (ii) in respect of the corporation for the year;

(b) “capital gains dividend account” of a mutual fund corporation at any time means the amount, if any, by which

(i) the aggregate of its capital gains from dispositions of property before that time while it was a mutual fund corporation,

exceeds

(ii) the aggregate of

(A) its capital losses from dispositions of property before that time while it was a mutual fund corporation,

(B) all capital gains dividends that became payable by the corporation before that time and after the end of the last taxation year ending before that time, and

“Capital  
gains  
dividend  
account”

*Subsection 131(6)*

(C) all amounts each of which is an amount in respect of any taxation year of the corporation ending before that time throughout which it was a mutual fund corporation, equal to 5 times its capital gains refund for that year;

“Dividend refund”

(c) “dividend refund” of a corporation for a taxation year has the meaning assigned by subsection 129(1);

“Refundable capital gains tax on hand”

(d) “refundable capital gains tax on hand” of a mutual fund corporation at the end of a taxation year means the amount, if any, by which

(i) the aggregate of amounts each of which is an amount in respect of that or any previous taxation year throughout which it was a mutual fund corporation, equal to 40% of the lesser of its taxable income for the year and its taxed capital gains for the year,

exceeds

(ii) the aggregate of amounts each of which is an amount in respect of any previous taxation year throughout which it was a mutual fund corporation, equal to its capital gains refund for the year.

“Taxed capital gains” defined

(7) In subsection (6), “taxed capital gains” of a taxpayer for a taxation year has the meaning assigned by subsection 130(3).

(7). New

Meaning of expression “mutual fund corporation”

(8) For the purposes of this Act, a corporation is a mutual fund corporation at any time in a taxation year if at that time

(8). New

(a) it was a Canadian corporation that was a public corporation,

(b) its only undertaking was the investing of funds of the corporation, and

(c) the issued shares of the capital stock of the corporation included shares having conditions attached thereto that included conditions requiring the corporation to accept, at the demand of the holder thereof

*Subsection 131(8)*

and at prices determined and payable in accordance with the conditions, the surrender of the shares, or fractions or parts thereof, that are fully paid, and

(i) the fair market value of such of the issued shares of its capital stock as had conditions attached thereto that included such conditions

was not less than 95% of

(ii) the fair market value of all of the issued shares of the capital stock of the corporation

(such fair market values being determined without regard to any voting rights attaching to shares of the capital stock of the corporation).

*Mutual Fund Trusts*

132. (1) Where a trust was, throughout a taxation year, a mutual fund trust, if a return of its income for the year has been made within 4 years from the end of the year the Minister

(a) may, upon mailing the notice of assessment for the year, refund without application therefor an amount (in this section referred to as its "capital gains refund" for the year) equal to the lesser of

(i) 20% of the trust's capital gains redemptions for the year, and

(ii) the trust's refundable capital gains tax on hand at the end of the year; and

(b) shall make such a refund after mailing the notice of assessment if application therefor has been made in writing by the trust within 4 years from the end of the year.

132. (1). New

(2) Instead of making a refund that might otherwise be made under subsection (1) the Minister may, where the trust is liable or about to become liable to make any payment under this Act, apply the amount that would otherwise be refunded to that other liability and notify the trust of that action.

(2). New

Capital  
gains refund  
to mutual  
fund trust

Application  
to other  
liability



Application  
of 104(20)

(3) In its application in respect of a mutual fund trust, subsection 104(20) shall be read as if paragraph (a) thereof were read

(a) without the reference therein to "other than a taxable dividend", and

(b) as if the reference therein to "a dividend" were read as a reference to "a capital dividend".

Definitions

"Capital gains redemptions"

(4) In this section,

(a) "capital gains redemptions" of a mutual fund trust for a taxation year means that proportion of

(i) the aggregate of

(A) 5 times its refundable capital gains tax on hand at the end of the year, and

(B) the amount, if any, by which the fair market value at the end of the year of all of the issued units of the trust exceeds the aggregate of the cost amounts to it at the end of the year of all of its properties and the amount of money of the trust on hand at that time,

that

(ii) the aggregate of amounts paid by it in the year on the redemption of units of the trust,

is of

(iii) the aggregate of the fair market value at the end of the year of all of the issued units of the trust and the amount determined under subparagraph (ii) in respect of the trust for the year; and

"Refundable capital gains tax on hand"

(b) "refundable capital gains tax on hand" of a mutual fund trust at the end of a taxation year means the amount, if any, by which

(i) the aggregate of amounts each of which is an amount in respect of that or any previous taxation year throughout which it was a mutual fund trust, equal to 40% of the lesser of its taxable income for the year and its taxed capital gains for the year,

exceeds

(3). New

(4). New

*Subsection 132(4)*

(ii) the aggregate of amounts each of which is an amount in respect of any previous taxation year throughout which it was a mutual fund trust, equal to its capital gains refund for the year.

"Taxed capital gains" defined

(5) In subsection (4), "taxed capital gains" of a taxpayer for a taxation year has the meaning assigned by subsection 130(3).

(5). New

Meaning of expression "mutual fund trust"

(6) For the purposes of this Act, a trust is a mutual fund trust at any time if, at that time,

(6). New

- (a) it was a unit trust resident in Canada,
- (b) its only undertaking was the investing of funds of the trust, and
- (c) it complied with prescribed conditions relating to the number of its unit holders, dispersal of ownership of its units and public trading of its units.

*Non-Resident-Owned Investment  
Corporations*

Computation of income

133. (1) In computing the income of a non-resident-owned investment corporation for a taxation year,

133. (1). Subsection 70(1), modified

(a) no deduction may be made in respect of interest on its bonds, debentures, securities or other indebtedness, and

(b) no deduction may be made under subsection 65(1),

and its income shall be computed as if

(c) the only taxable capital gains and allowable capital losses referred to in paragraph 3(b) were taxable capital gains and allowable capital losses from dispositions of taxable Canadian property, and

*Subsection 133(1)*

(d) any taxable capital gain or allowable capital loss of the corporation were an amount equal to 2 times the amount thereof otherwise determined.

Non-resident-owned investment corporations

(2) In computing the taxable income of a non-resident-owned investment corporation for a taxation year, no deduction may be made from its income for the year, except

(a) interest received in the year from other non-resident-owned investment corporations, and

(b) taxes paid to the government of a country other than Canada in respect of any part of the income of the corporation for the year derived from sources therein.

(2). Subsection 70(1), modified

Special tax rate

(3) The tax payable under this Part by a corporation for a taxation year when it was a non-resident-owned investment corporation is an amount equal to 25% of its taxable income for the year.

(3). Subsection 70(2), modified

No deduction for foreign taxes

(4) No deduction from the tax payable under this Part by a non-resident-owned investment corporation may be made under section 124 or in respect of taxes paid to the government of a country other than Canada.

(4). Subsection 70(3)

1971 undistributed income and capital surplus on hand

(5) For the purposes of this Act,

(a) in computing the 1971 undistributed income on hand of a non-resident-owned investment corporation at any time, there shall be deducted the amount, if any, by which

(i) the corporation's 1971 undistributed income on hand at that time otherwise determined exceeds

(ii) the corporation's surplus, determined in prescribed manner at the end of its 1971 taxation year, for taxation years ending before 1972 for which it was not taxable under section 70 of this Act as it read in its application to the 1971 taxation year; and

(b) in computing the 1971 capital surplus on hand of a non-resident-owned investment corporation at any time, there shall be added to the amount thereof otherwise determined

(5). New

*Subsection 133(5)*

the amount of the excess described in paragraph (a).

Allowable  
refund to  
N.R.O.

(6) If the return of a non-resident-owned investment corporation's income for a taxation year has been made within 4 years from the end of the year the Minister

(6). New

(a) may, upon mailing the notice of assessment for the year, refund, without application therefor, its allowable refund for the year; and

(b) shall make such a refund after mailing the notice of assessment if application therefor has been made in writing by the corporation within 4 years from the end of the year.

Application  
to other  
liability

(7) Instead of making a refund that might otherwise be made under subsection (6), the Minister may, where the taxpayer is liable or about to become liable to make any payment under this Act, apply the amount that would otherwise be refunded to that other liability and notify the taxpayer of that action.

(7). New

Definitions

"Allowable  
refund"

(8) In this section,

(8). Subsection 79(4), modified

(a) "allowable refund" of a non-resident-owned investment corporation for a taxation year means the aggregate of amounts each of which is an amount in respect of a taxable dividend paid by the corporation in the year on a share of its capital stock, equal to that proportion of the dividend that

(i) the corporation's allowable refundable tax on hand immediately before the dividend was paid

is of

(ii) the corporation's cumulative taxable income immediately before the dividend was paid; and

"Non-  
resident-  
owned  
investment  
corporation"

(b) "non-resident-owned investment corporation" means a corporation incorporated in Canada that, throughout the whole of the period commencing on the later of June 18, 1971 and the day on which it was incorporated and ending on the last day of the taxation year in respect of which the ex-



pression is being applied, complied with the following conditions:

(i) all of its issued shares and all of its bonds, debentures and other funded indebtedness were

(A) beneficially owned by non-resident persons (other than any foreign affiliate of a taxpayer resident in Canada), or

(B) owned by trustees for the benefit of non-resident persons or their unborn issue;

(ii) its income for each taxation year in the period was derived from

(A) ownership of or trading or dealing in bonds, shares, debentures, mortgages, hypothecs, bills, notes or other similar property or any interest therein,

(B) lending money with or without security,

(C) rents, hire of chattels, charterparty fees or remunerations, annuities, royalties, interest or dividends,

(D) estates or trusts, or

(E) disposition of capital property;

(iii) not more than 10% of its gross revenue for each taxation year in the period was derived from rents, hire of chattels, charterparty fees or charterparty remunerations;

(iv) its principal business in each taxation year in the period was not

(A) the making of loans, or

(B) trading or dealing in bonds, shares, debentures, mortgages, hypothecs, bills, notes or other similar property or any interest therein;

*Subsection 133(8)*

(v) it has, not later than 90 days after the commencement of the first taxation year in the period, elected in prescribed manner to be taxed under this section; and

(vi) it has not, before the end of the last taxation year in the period, revoked in prescribed manner the election so made by it;

except that in no case shall a new corporation (within the meaning assigned by section 87) formed as a result of an amalgamation after June 18, 1971 of two or more predecessor corporations be regarded as a non-resident-owned investment corporation unless each of the predecessor corporations was, immediately before the amalgamation, a non-resident-owned investment corporation.

## Definitions

"Allowable refundable tax on hand"

(9) In paragraph (8)(a),

(a) "allowable refundable tax on hand" of a corporation at any particular time means the amount, if any, by which

(i) the aggregate of amounts each of which is an amount in respect of any taxation year commencing after 1971 and ending before the particular time, equal to the tax under this Part payable by the corporation for the year

exceeds the aggregate of amounts each of which is

(ii) an amount in respect of any taxation year referred to in subparagraph (i), equal to 12 1/2% of the amount, if any, by which the aggregate of the corporation's capital gains for the year from dispositions of property exceeds the aggregate of its capital losses for the year from dispositions of property,

(iii) an amount equal to 1/3 of any amount paid or credited by the corporation, before the particular time and after the commencement of its first taxation year commencing after 1971, as, on account or in lieu of payment of, or in satisfaction of interest, or

(9). New

*Subsection 133(9)*

(iv) an amount in respect of any taxable dividend paid by the corporation on a share of its capital stock before the particular time and after the commencement of its first taxation year commencing after 1971, equal to the amount in respect of the dividend determined under paragraph (8)(a); and

"Cumulative taxable income"

(b) "cumulative taxable income" of a corporation at any particular time means the amount, if any, by which

(i) the aggregate of its taxable incomes for taxation years commencing after 1971 and ending before the particular time,

exceeds the aggregate of amounts each of which is

(ii) an amount in respect of any taxation year referred to in subparagraph (i), equal to 12 1/2% of the amount, if any, by which the aggregate of the corporation's capital gains for the year from dispositions of property exceeds the aggregate of its capital losses for the year from dispositions of property,

(iii) 4/3 of any amount paid or credited by the corporation, before the particular time and after the commencement of its first taxation year commencing after 1971, as, on account or in lieu of payment of, or in satisfaction of interest, or

(iv) the amount of any taxable dividend paid by the corporation on a share of its capital stock before the particular time and after the commencement of its first taxation year commencing after 1971.

N.R.O. deemed not to be Canadian or private corporation

134. Notwithstanding any other provision of this Act, a non-resident-owned investment corporation that would, but for this section, be a Canadian corporation or private corporation shall be deemed not to be a Canadian corporation or private corporation, as the case may be, except for the purposes of sections 115 and 219.

134. New

*Patronage Dividends*

- |   |  |  |
|---|--|--|
| <p><b>Deduction in computing income</b></p>               | <p><b>135. (1)</b> Notwithstanding anything in this Part, there may be deducted, in computing the income of a taxpayer for a taxation year, the aggregate of the payments made, pursuant to allocations in proportion to patronage, by the taxpayer</p> <p style="padding-left: 20px;">(a) within the year or within 12 months thereafter to his customers of the year, and</p> <p style="padding-left: 20px;">(b) within the year or within 12 months thereafter to his customers of a previous year, the deduction of which from income of a previous taxation year was not permitted.</p>   | <p><b>135. (1).</b> Subsection 75(1), modified</p> |
| <p><b>Limitation where non-member customers</b></p>       | <p><b>(2)</b> Notwithstanding subsection (1), if the taxpayer has not made allocations in proportion to patronage in respect of all his customers of the year at the same rate, with appropriate differences for different types or classes of goods, products or services, or classes, grades or qualities thereof, the amount that may be deducted under this section is an amount equal to the lesser of</p> <p style="padding-left: 20px;">(a) the aggregate of the payments mentioned in subsection (1), or</p> <p style="padding-left: 20px;">(b) the aggregate of</p> <p style="padding-left: 40px;">(i) the part of the income of the taxpayer for the year attributable to business done with members, and</p> <p style="padding-left: 40px;">(ii) the allocations in proportion to patronage made to non-member customers of the year.</p> | <p><b>(2).</b> Subsection 75(2)</p>                |
| <p><b>Limitation by reference to capital employed</b></p> | <p><b>(3)</b> Where the deduction of an amount under subsection (1) or (2) would result in the taxpayer's taxable income for the taxation year (before making any deduction under section 111) being less than the amount by which</p> <p style="padding-left: 20px;">(a) 5% of the members' capital employed by the taxpayer at the commencement of the year,</p> <p>exceeds</p> <p style="padding-left: 20px;">(b) the interest, if any, paid on money borrowed from members and deductible in computing the taxpayer's income for the year,</p>   | <p><b>(3).</b> Subsection 75(3), modified</p>      |



the amount that may be deducted under this section is such as will leave the taxpayer with a taxable income (before making any deduction under section 111) equal to the excess.

## Definitions

(4) For the purposes of this section,

(a) “allocation in proportion to patronage” for a taxation year means an amount credited by a taxpayer to a customer of that year on terms that the customer is entitled to or will receive payment thereof, computed at a rate in relation to the quantity, quality or value of the goods or products acquired, marketed, handled, dealt in or sold, or services rendered by the taxpayer from, on behalf of or to the customer, whether as principal or as agent of the customer or otherwise, with appropriate differences in the rate for different classes, grades or qualities thereof, if

(i) the amount was credited

(A) within the year or within 12 months thereafter, and

(B) at the same rate in relation to quantity, quality or value aforesaid as the rate at which amounts were similarly credited to all other customers of that year who were members or to all other customers of that year, as the case may be, with appropriate differences aforesaid for different classes, grades or qualities, and

(ii) the prospect that amounts would be so credited was held forth by the taxpayer to his customers of that year who were members or non-member customers of that year, as the case may be;

(b) “consumer goods or services” means goods or services the cost of which was not deductible by the taxpayer in computing the income from a business or property;

(c) “customer” means a customer of a taxpayer and includes a person who sells or delivers goods or products to the taxpayer, or for whom the taxpayer renders services;

(4). Subsection 75(4), modified

(d) "income of the taxpayer attributable to business done with members" of any taxation year means that proportion of the income of the taxpayer for the year (before making any deduction under this section) that the value of the goods or products acquired, marketed, handled, dealt in or sold or services rendered by the taxpayer from, on behalf of, or for members, is of the total value of goods or products acquired, marketed, handled, dealt in or sold or services rendered by the taxpayer from, on behalf of, or for all customers during the year;

(e) "member" means a person who is entitled as a member or shareholder to full voting rights in the conduct of the affairs of the taxpayer (being a corporation) or of a corporation of which the taxpayer is a subsidiary wholly-owned corporation;

(f) "members' capital employed by the taxpayer" at the commencement of a taxation year means the amount, if any, by which the aggregate of all amounts each of which is an amount determined at the end of the immediately preceding year, equal to

(i) the amount of any money of the taxpayer on hand at that time,

(ii) the amount of any debt owing to the taxpayer, or of any other right of the taxpayer to receive an amount, that was outstanding at that time,

(iii) an amount in respect of property owned by the taxpayer and described in his inventory at that time, equal to its value, at that time, for the purposes of computing the income of the taxpayer for that immediately preceding year,

(iv) an amount in respect of depreciable property of a prescribed class owned by the taxpayer at that time, equal to the undepreciated capital cost thereof to the taxpayer at that time,

(v) an amount in respect of any capital property (other than depreciable property) owned by the taxpayer at that time, equal to its adjusted cost base to him at that time, or

"Members' capital employed by the taxpayer"

(vi) the amount of the cumulative eligible capital of the taxpayer in respect of the business at that time,

exceeds the aggregate of all amounts each of which is an amount determined at the end of the immediately preceding taxation year, equal to

(vii) the amount of any debt owing by the taxpayer, or any other obligation of the taxpayer to pay an amount, that was outstanding at that time (other than

(A) any debt or obligation to any member incurred in the course of any transaction made in the ordinary course of the business of the taxpayer, or

(B) any obligation to pay any patronage dividend to any member,

that has been unpaid or outstanding for more than 12 months), or

(viii) the amount of any reserve deducted in computing the taxpayer's income for that immediately preceding year;

(g) "non-member customer" means a customer who is not a member; and

(h) "payment" includes

(i) the issue of a certificate of indebtedness or shares of the taxpayer or of a corporation of which the taxpayer is a subsidiary wholly-owned corporation if the taxpayer or that corporation has in the year or within 12 months thereafter disbursed an amount of money equal to the aggregate face value of all certificates or shares so issued in the course of redeeming or purchasing certificates of indebtedness or shares of the taxpayer or that corporation previously issued,

(ii) the application by the taxpayer of an amount to a member's liability to the taxpayer (including, without restricting the generality of the foregoing, an amount applied in fulfilment of an obligation of the member to make a loan to the taxpayer and an amount applied on account of payment for shares issued to a member) pursuant to a by-law of the taxpayer, pursuant to statutory authority or at the request of the member, or

*Subsection 135(4)*

(iii) the amount of a payment or transfer by the taxpayer that, under subsection 56(2), is required to be included in computing the income of a member.

Holding  
forth  
prospect of  
allocations

(5) For the purpose of this section a taxpayer shall be deemed to have held forth the prospect that amounts would be credited to a customer of a taxation year by way of allocation in proportion to patronage, if

(a) throughout the year the statute under which the taxpayer was incorporated or registered, its charter, articles of association or by-laws or its contract with the customer held forth the prospect that amounts would be so credited to customers who are members or non-member customers, as the case may be, or

(b) prior to the commencement of the year or prior to such other day as may be prescribed for the class of business in which the taxpayer is engaged, the taxpayer has published an advertisement in prescribed form in a newspaper or newspapers of general circulation throughout the greater part of the area in which the taxpayer carried on business holding forth that prospect to customers who are members or non-member customers, as the case may be, and has filed copies of the newspapers with the Minister before the end of the 30th day of the taxation year or within 30 days from the prescribed day, as the case may be.

Saving  
provision

(6) For the purposes of subsection (3), "5% of the members' capital employed by the taxpayer at the commencement of the year" means, in any case where the taxation year of the taxpayer is less than 12 months, that proportion of 5% of the members' capital so employed at the commencement of the year that the number of days in the year is of 365.

Customer's  
provision

(7) Where a payment has been received by a taxpayer in respect of an allocation in proportion to patronage (other than an allocation in respect of consumer goods or services), the amount thereof shall be included in computing the recipient's income for the taxation year in which the payment was received and, without restricting the generality of the foregoing,

(5). Subsection 75(5)

(6). Subsection 75(5a), modified

(7). Subsection 75(6)



*Subsection 135(7)*

where a certificate of indebtedness or a share was issued to a person in respect of an allocation in proportion to patronage, the amount thereof shall be included in computing the recipient's income for the taxation year in which the certificate or share was received and not in computing his income for the year in which the indebtedness was subsequently discharged or the share was redeemed.

*Cooperative Corporations*

Cooperative  
corporation  
deemed not  
to be  
private  
corporation

136. (1) Notwithstanding any other provision of this Act, a cooperative corporation that would, but for this section, be a private corporation shall be deemed not to be a private corporation except for the purposes of section 125 and Part V.

136. (1). New

Meaning  
of expres-  
sion "coop-  
erative  
corpor-  
ation"

(2) In this section, "cooperative corporation" means a corporation that was incorporated under provincial legislation respecting the establishment of cooperative corporations for the purpose of marketing (including processing incident to or connected therewith) natural products belonging to or acquired from its members or customers, of purchasing supplies, equipment or household necessities for or to be sold to its members or customers or of performing services for its members or customers, if

(2). Subsection 73(1), modified

(a) the statute under which it was incorporated, its charter, articles of association or by-laws or its contracts with its members or its members and customers held forth the prospect that payments would be made to them in proportion to patronage,

(b) none of its members have more than one vote in the conduct of the affairs of the corporation, and

(c) at least 90% of its members are individuals or other cooperative corporations and at least 90% of its shares, if any, are held by such persons.

*Credit Unions and Caisses populaires*

Deductions  
in compu-  
ting income

137. (1) In computing the income for a taxation year of a credit union, 137. (1). New

(a) there may be deducted as a reserve in respect of bonds, debentures, agreements of sale, mortgages or hypothecs, in lieu of any deduction in respect thereof under paragraph 20(1)(I), such amount as may be claimed by the credit union, not exceeding a prescribed amount;

(b) there may be deducted as a reserve in respect of debts owing to the credit union (other than any debt described in paragraph (a)), in lieu of any deduction in respect thereof under paragraph 20(1)(I), such amount as may be claimed by the credit union, not exceeding a prescribed amount;

(c) there shall be included any amount deducted under paragraph (a) or (b) as a reserve in computing the credit union's income for the immediately preceding taxation year; and

(d) no deduction may be made under section 33.

Payments  
pursuant  
to alloca-  
tions in  
proportion  
to borrowing

(2) Notwithstanding anything in this Part, there may be deducted, in computing the income for a taxation year of a credit union, the aggregate of the payments made, pursuant to allocations in proportion to borrowing, by the credit union within the year or within 12 months thereafter to members of the credit union, to the extent that such payments were not deductible under this subsection in computing the income of the credit union for the immediately preceding taxation year. (2). New

Limitation  
by referen-  
ce to capi-  
tal employ-  
ed

(3) Where the deduction of an amount under subsection (2) would result in a credit union's taxable income for the year (before making any deduction under section 111) being less than the amount by which (3). New

(a) 5% of the members' capital employed by the credit union at the commencement of the year,

*Subsection 137(3)*

exceeds

(b) the aggregate of annual or other periodic amounts paid by the credit union in the year to its members in respect of the members' shares in the credit union,

the amount that may be deducted under subsection (2) is such as will leave the credit union with a taxable income (before making any deduction under section 111) equal to the excess.

**Definitions**

(4) For the purposes of subsection (3), "5% of the members' capital employed by the credit union at the commencement of the year" means, in any case where the taxation year of the credit union is less than 12 months, that proportion of 5% of the members' capital so employed at the commencement of the year that the number of days in the year is of 365.

(4). New

**Member's income**

(5) Where a payment has been received by a taxpayer from a credit union in a taxation year in respect of an allocation in proportion to borrowing, the amount thereof shall, to the extent that it does not exceed the amount in respect of interest paid by the taxpayer in the year on money borrowed from the credit union by the taxpayer that is deductible under paragraph 20(1)(c) in computing the taxpayer's income for the year, be included in computing the taxpayer's income for the year.

(5). New

**Definitions**

(6) In this section,

**"Allocation in proportion to borrowing"**

(a) "allocation in proportion to borrowing" for a taxation year means an amount credited by a credit union to a member of the credit union in the year on terms that the member is entitled to or will receive payment thereof, computed at a rate in relation to

(6).

(a). New

(i) the amount of interest payable by the member on money borrowed from the credit union, or

(ii) the amount of money borrowed by the member from the credit union,

if the amount was credited within the year or within 12 months thereafter and at the same rate in relation to the amount of interest or money, as the case may be, as the rate at which amounts were similarly credited in the year to all other members of the credit union;

(b) "credit union" means a corporation or association incorporated or organized as a credit union or cooperative credit society if

(i) it was restricted to carrying on business in one province and it derived its revenues primarily from

(A) loans made to, or cashing cheques for, members residing within the province,

(B) bonds of, or guaranteed by, the Government of Canada or of a province, or

(C) loans made to a cooperative credit society of which it is a member, or

(ii) the members thereof were corporations or associations

(A) incorporated or organized as credit unions, substantially all of which derived their revenues primarily from loans made to members or from bonds of, or guaranteed by, the Government of Canada or of a province,

(B) incorporated, organized or registered under provincial cooperative legislation or governed by such legislation, or

(C) incorporated or organized for charitable purposes,

or were corporations or associations no part of the income of which was payable to, or otherwise available for the personal benefit of, any shareholder or member thereof;

(c) "member" of a credit union means a person who is entitled as a member or shareholder to full voting rights in the conduct of the affairs of the credit union; and

(b). Paragraph 62(1)(k), modified

(c). New

"Credit union"

"Member"



## Subsection 137(6)

"Members'  
capital  
employed  
by the  
credit  
union"

(d) "members' capital employed by the credit union" at the commencement of a taxation year means the amount, if any, by which the aggregate of amounts each of which is an amount determined at the end of the immediately preceding year, equal to

(i) the amount of any money of the credit union on hand at that time,

(ii) the amount of any debt owing to the credit union, or of any other right of the credit union to receive an amount, that was outstanding at that time,

(iii) an amount in respect of depreciable property of a prescribed class owned by the credit union at that time, equal to the undepreciated capital cost thereof to it at that time,

(iv) an amount in respect of any capital property (other than depreciable property) owned by the credit union at that time, equal to its adjusted cost base to it at that time, or

(v) the amount of the cumulative eligible capital of the credit union in respect of the business at that time,

exceeds the aggregate of amounts each of which is an amount determined at the end of the immediately preceding year, equal to

(vi) the amount of any debt owing by the credit union, or any other obligation of the credit union to pay an amount, that was outstanding at that time, excluding,

for greater certainty, any share in the credit union of any member thereof, or

(vii) the amount of any reserve deducted in computing the credit union's income for that immediately preceding taxation year.

(d). New

Credit  
union  
deemed  
not to be  
private  
corporation

(7) Notwithstanding any other provision of this Act, a credit union that would, but for this section, be a private corporation shall be deemed not to be a private corporation except for the purposes of section 125 and Part V.

(7). New

*Insurance Corporations*Insurance  
corpora-  
tions

138. (1) It is hereby declared that a corporation, whether or not it is a mutual corporation, that has, in a taxation year, been a party to insurance contracts or other arrangements or relationships of a particular class whereby it can reasonably be regarded as undertaking

(a) to insure other persons against loss, damage or expense of any kind, or

(b) to pay insurance moneys to other persons

(i) on the death of any person,

(ii) on the happening of an event or contingency dependent on human life,

(iii) for a term dependent on human life, or

(iv) at a fixed or determinable future time,

whether or not such persons are members or shareholders of the corporation, shall, regardless of the form or legal effect of those contracts, arrangements or relationships, be deemed, for the purposes of this Act, to have been carrying on an insurance business of that class in the year for profit, and in any such case, for the purpose of computing the income from that business the following rules apply:

(c) every amount received by the corporation under, in consideration of, in respect of or on account of such a contract, arrangement or relationship shall be deemed to have been received by it in the course of that business;

(d) the income shall, except as otherwise provided in this section, be computed in accordance with the rules applicable in computing the income from a business for the purposes of this Part;

138. (1). Subsection 68A(1), modified

## Subsection 138(1)

(e) all income from property vested in the corporation shall be deemed to be income of the corporation; and

(f) all taxable capital gains and allowable capital losses from dispositions of property vested in the corporation shall be deemed to be taxable capital gains or allowable capital losses, as the case may be, of the corporation.

Insurer's  
income  
or loss

(2) Notwithstanding any other provision of this Act, in the case of an insurer, other than a resident of Canada that does not carry on a life insurance business,

(2). Subsection 68A(2)

(a) its income for a taxation year from carrying on an insurance business is the amount of its income for the year from carrying on that insurance business in Canada; and

(b) its loss sustained in a taxation year in carrying on an insurance business is the amount of its loss, if any, sustained in the year in carrying on that insurance business in Canada, computed by applying the provisions of this Act respecting the computation of income from an insurance business of the class carried on by it, *mutatis mutandis*.

Deductions  
allowed in  
computing  
income

(3) In computing a life insurer's income for a taxation year from carrying on its life insurance business in Canada, there may be deducted

(3). Subsection 68A(3)

(a) such of the following amounts as are applicable:

(i) such amount in respect of a policy reserve for the year for life insurance policies of a particular class as is allowed by regulation,

(ii) such amount in respect of an additional reserve for the year for life insurance policies that are group term insurance policies as is allowed by regulation,

(iii) an amount equal to the lesser of

(A) the amount, if any, by which the aggregate of policy dividends (except the portion thereof paid out of segregated funds) that became payable by the insurer after its 1968 taxation year

and before the end of the year under its participating life insurance policies exceeds the aggregate of amounts deductible under this subparagraph in computing its incomes for taxation years before the year, and

(B) the amount, computed in accordance with prescribed rules, of the insurer's income for the year from its participating life insurance business carried on in Canada,

(iv) an amount as a reserve for policy dividends equal to the least of

(A) the amount of policy dividends that will, according to the financial statements of the insurer as of the end of the year, become payable by the insurer in the immediately following year under its participating life insurance policies,

(B) 110% of the aggregate of policy dividends that become payable by the insurer in the immediately following year under its participating life insurance policies, and

(C) the amount, if any, by which the amount for the year described in clause (iii)(B) exceeds the amount for the year described in clause (iii)(A),

(v) each amount (other than an amount credited under a participating life insurance policy) that would be deductible under section 140 in computing the insurer's income for the year if the reference therein to "an insurance business other than a life insurance business" were read as a reference to "a life insurance business in Canada",



- (vi) each amount allocated in the year by the insurer to a policyholder, to the extent that it is required by paragraph 148(1)(b) to be included in computing the income of the policyholder or would be so required to be included therein but for the exception contained in that paragraph with respect to a registered retirement savings plan or a registered pension fund or plan, and
  - (vii) the amount of tax under Part XII payable by the insurer in respect of its taxable Canadian life investment income for the year computed in accordance with that Part;
- (b) the aggregate of losses sustained in the year by the insurer in respect of Canada securities owned by it that were disposed of by it in the year;
- (c) such amount as the insurer may claim for the year in respect of an investment reserve, not exceeding the lesser of
- (i)  $1\frac{1}{2}\%$  of the aggregate of the amortized cost to it at the end of the year of each Canada security owned by it at that time (other than a bond or debenture that matures within 1 year after that time) and each amount due and unpaid at that time as or on account of interest payable thereunder to the insurer, and
  - (ii) the aggregate of  $\frac{1}{3}$  of the amount determined under subparagraph (i) and the amount, if any, by which the amount deducted by the insurer under this paragraph in computing its income for the immediately preceding taxation year exceeds the amount, if any, by which
- (A) the amount deductible under paragraph (b) in computing its income for the year,  
exceeds
  - (B) the amount required by paragraph (4)(b) to be included in computing its income for the year; and

*Subsection 138(3)*

(d) the aggregate of each such portion of each amount, if any, by which the cost to the insurer of acquiring a Canada security owned by it at the end of the year exceeds the principal amount of the security at the time it was so acquired as was reported by the insurer, in the insurer's annual report for the year to the relevant authority, to have been deducted in computing its profit for the year.

(4) In computing a life insurer's income for a taxation year from carrying on its life insurance business in Canada, there shall be included

(a) each amount deducted by the insurer under subparagraph (3)(a)(i), (ii) or (iv) or under paragraph (3)(c) in computing its income for the immediately preceding taxation year;

(b) the aggregate of profits or gains made in the year by the insurer in respect of Canada securities owned by it that were disposed of by it in the year; and

(c) the aggregate of each such portion of each amount, if any, by which the principal amount, at the time it was acquired by the insurer, of a Canada security owned by it at the end of the year exceeds the cost to the insurer of so acquiring it as was reported by the insurer, in the insurer's annual report for the year to the relevant authority, to have been included in computing its profit for the year.

(5) In computing a life insurer's income for a taxation year from carrying on its life insurance business in Canada, no deduction may be made under paragraph 20(1)(f) or section 33.

(6) In computing the taxable income of a life insurer for a taxation year no deduction from the income of the insurer for the year may be made under section 112 but there may be deducted from such income that proportion of the aggregate of dividends received by

(4). Subsection 68A(4)

(5). Subsection 68A(5)

(6). Subsection 68A(6), modified

Amounts  
included  
in com-  
puting  
income

Deductions  
not allowed

Deduction  
for  
dividends  
from  
taxable  
corpora-  
tions

the insurer in the year from taxable Canadian corporations in respect of shares that were non-segregated property of the insurer, that

(a) the lesser of

(i) the insurer's income for the year from carrying on its life insurance business in Canada, and

(ii) the amount, if any, by which the insurer's net Canadian life investment income for the year exceeds the amount determined in respect of the insurer for the year under paragraph 209(3)(a)

is of

(b) the insurer's net Canadian life investment income for the year.

Amounts  
paid to  
share-  
holders  
included in  
taxable  
income

(7) The taxable income for a taxation year of a life insurer resident in Canada is its taxable income for the year otherwise computed under this Part, plus twice the amount, if any, by which the aggregate of amounts paid after the end of its 1968 taxation year and before the end of the year as, on account or in lieu of payment of, or in satisfaction of dividends or stock dividends in respect of shares of the capital stock of the insurer, exceeds the aggregate of

(a) the insurer's undistributed income on hand at the end of its 1968 taxation year in respect of which tax under this Part has been paid by it,

(b) the surplus funds derived from operations of the insurer as of the end of the year,

(c) the lesser of

(i) the insurer's accumulated 1968 deficit, and

(ii) the aggregate of the insurer's maximum tax actuarial reserves for its 1968 taxation year for its life insurance policies in Canada,

(7). Subsection 68A(7)

(d) 1/2 the aggregate of amounts that, by virtue of this subsection, have been added to the taxable income of the insurer otherwise computed under this Part in computing its taxable income for taxation years before the year,

(e) if the insurer has made an election under subsection (9) in respect of the year, the lesser of

(i) the aggregate of dividends and stock dividends in respect of shares of the capital stock of the insurer paid by it in the year out of property other than property used by the insurer in the year in, or held by it in the year in the course of, carrying on an insurance business in Canada, and

(ii) the amount of tax for the year paid by the insurer to the government of a country other than Canada under the income tax laws of that country out of property other than property used by the insurer in the year in, or held by it in the year in the course of, carrying on an insurance business in Canada,

(f) if the insurer has not made an election under subsection (9) in respect of the year, the lesser of

(i) that proportion of the aggregate of dividends and stock dividends in respect of shares of the capital stock of the insurer paid by it in the year that

(A) the insurer's gross investment revenue for the year (except such part thereof as is required by subsection (9) to be included in computing its income for the year)

is of

(B) the insurer's gross investment revenue for the year, and

(ii) the amount of tax for the year paid by the insurer to the government of a country other than Canada under the income tax laws of that country, and



(g) the aggregate of all amounts determined under paragraphs (e) and (f) in respect of the insurer for taxation years before the year.

No de-  
duction for  
foreign tax

(8) No deduction shall be made under section 126 from the tax payable under this Part for a taxation year by a life insurer resident in Canada.

(8). Subsection 68A(8)

Election  
as to  
computation  
of income

(9) Where in a taxation year an insurer (other than a resident of Canada that does not carry on a life insurance business) carried on an insurance business in Canada and in a country other than Canada, there shall be included in computing its income for the year from carrying on that business in Canada,

(9). Subsection 68A(9)

(a) if the insurer has, in prescribed manner and in accordance with prescribed conditions, made an election under this subsection in respect of the year, such part of its gross investment revenue for the year as is gross investment revenue from property used by it in the year in, or held by it in the year in the course of, carrying on that business in Canada, and

(b) in any other case, such part of its gross investment revenue for the year as is determined in accordance with prescribed rules to be applicable to the carrying on by it of that business in Canada,

and if the insurer has not so elected in respect of the year, the amounts deductible under paragraphs (3)(b), (c) and (d) in computing its income for the year, the amounts required by paragraphs (4)(b) and (c) to be included in computing such income, and the amounts determined under paragraphs (12)(o)(ii) and (iv) for the period ending with the year shall be determined in accordance with prescribed rules.

Change in  
method of  
computing  
income

(10) Where an insurer has filed a return of income under this Part for a taxation year wherein its income for that year has been computed using the method required by such of the provisions of subsection (9) as apply in consequence of the insurer's having made the

(10). Subsection 68A(10)

*Subsection 138(10)*

election referred to therein, or, if the insurer has not elected thereunder, using the method required by the other provisions thereof, its income for a subsequent taxation year shall be computed in accordance with the method so used unless the insurer, with the concurrence of the Minister and upon such terms and conditions as are specified by the Minister, adopts the other method and, where appropriate, makes an election under that subsection.

(11) For the purposes of paragraphs (3)(b) and (4)(b),

(a) the profit or gain made by an insurer in a taxation year in respect of a Canada security owned by it that was disposed of by it in the year is the amount by which the proceeds of disposition to which the insurer thereby became entitled exceeds the amortized cost of the security to the insurer at the time of the disposition; and

(b) the loss sustained by an insurer in a taxation year in respect of a Canada security owned by it that was disposed of by it in the year is the amount by which the amortized cost of the security to the insurer at the time of the disposition exceeds the proceeds of the disposition to which the insurer thereby became entitled.

(12) In this section,

(a) "accumulated 1968 deficit" of a life insurer means such amount as can be established by the insurer to be its deficit as of the end of its 1968 taxation year from carrying on its life insurance business in Canada on the assumption that the amounts of its assets and liabilities (including reserves of any kind)

(i) as of the end of any taxation year before its 1968 taxation year, were the amounts thereof determined for the purposes of the relevant authority, and

(ii) as of the end of its 1968 taxation year, were

(A) in respect of depreciable property, the capital cost thereof as of the first day of its 1969 taxation year,

(11). Subsection 68A(11)

(12). Subsection 68A(12), modified

Profit or  
loss in  
respect  
of Canada  
security

Definitions  
"Accumulated 1968  
deficit"

(B) in respect of policy reserves, the insurer's maximum tax actuarial reserves for its 1968 taxation year for life insurance policies issued by it in the course of carrying on its life insurance business in Canada, and

(C) in respect of other assets and liabilities, the amounts thereof determined as of the end of that year for the purpose of computing its income for its 1969 taxation year;

"Amortized cost"

(b) "amortized cost" of a Canada security at a particular time to an insurer means the amount, if any, by which

(i) the cost to the insurer of acquiring the security, plus any amount in respect of the security that has been included by virtue of paragraph (4)(c) in computing the insurer's income for any taxation year ending before or concurrently with that time, or minus any amount in respect of the security that was deductible under paragraph (3)(d) in computing the insurer's income for any such taxation year, as the case may be,

exceeds

(ii) the aggregate of all amounts that, before that time, the insurer became entitled to receive as, on account or in lieu of payment of, or in satisfaction of the principal amount of the security;

"Canada security"

(c) "Canada security" of an insurer means a bond, debenture, mortgage, hypothec or agreement of sale that is non-segregated property used by it in, or held by it in the course of carrying on its life insurance business in Canada;

"Cost"

(d) "cost" to an insurer of acquiring a mortgage or hypothec includes any amount advanced by the insurer to the borrower by way of loan under the terms of the mortgage or hypothec;

## Subsection 138(12)

|                                       |   |                                     |
|---------------------------------------|---|-------------------------------------|
| "Gross investment revenue"            | (e) "gross investment revenue" of an insurer for a taxation year means the aggregate of its dividend, interest, rental and royalty revenue (other than dividends that are not taxable dividends) for the year and any amounts required by subsection 16(1) to be included in computing its income for the year;   | (e). Paragraph 68A(12)(e), modified |
| "Life insurance policy"               | (f) "life insurance policy" includes an annuity contract and a contract all or any part of the insurer's reserves for which vary in amount depending upon the fair market value of a specified group of assets;   |                                     |
| "Life insurance policy in Canada"     | (g) "life insurance policy in Canada" means a life insurance policy issued or effected by an insurer upon the life of a person resident in Canada at the time the policy was issued or effected;  |                                     |
| "Maximum tax actuarial reserve"       | (h) "maximum tax actuarial reserve" for a particular class of life insurance policy for a taxation year of a life insurer means, except as otherwise expressly prescribed, the maximum amount allowable under subparagraph (3)(a)(i) as a policy reserve for the year in respect of policies of that class;   |                                     |
| "Net Canadian life investment income" | (i) "net Canadian life investment income" has the meaning assigned by subsection 209(2);  |                                     |
| "Non-segregated property"             | (j) "non-segregated property" of an insurer means its property other than property included in a segregated fund;   |                                     |
| "Participating life insurance policy" | (k) "participating life insurance policy" means a life insurance policy under which the policyholder is entitled to share (other than by way of an experience rating refund) in the profits of the insurer other than profits in respect of property in a segregated fund;  |                                     |
| "Property used in the year"           | (l) "property used in the year in, or held in the course of" carrying on an insurance business in Canada means, in relation to any taxation year of an insurer in respect of which the insurer has made an election under subsection (9), such portion of the property used by it in the year in, or held by it in the year in the course of, carrying on an insurance business in Canada (determined | (l). Paragraph 68A(12)(m), modified |



without reference to this paragraph) as is designated by it in its return of income for the year required by this Part to be filed with the Minister, to be, for the purposes of this Act, property used by it in, or held by it in the course of carrying on an insurance business in Canada, except that in no case shall the value (within the meaning assigned by paragraph 219(7)(e)) of the portion so designated be less than the amount that would, if the insurer had not so elected, have been the insurer's Canadian investment fund (within the meaning prescribed for that expression for the purposes of Part XIV) at the end of the immediately preceding taxation year;

"Relevant authority"

(m) "relevant authority" in relation to a life insurer means

- (i) the Superintendent of Insurance for Canada, if the insurer is required by law to report to him, or
- (ii) in any other case, the Superintendent of Insurance or other similar officer or authority of the province under whose laws the insurer is incorporated;

"Segregated fund"

(n) "segregated fund" has the meaning given that expression in subsection 148(1);

"Surplus funds derived from operations"

(o) "surplus funds derived from operations" of an insurer as of the end of a particular taxation year means the aggregate of

- (i) its income for each taxation year in the period beginning with its 1969 taxation year and ending with the particular year from all insurance businesses carried on by it, and
- (ii) all profits or gains made by the insurer in the period in respect of non-segregated property of the insurer disposed of by it that was used by it in, or held by it in the course of, carrying on an insurance business in Canada, except to the extent that such profits or gains have been or are included in computing the insurer's income or loss, if any, for any

(m). Paragraph 68A(12)(n)

(n). Paragraph 68A(12)(o)

(o). Paragraph 68A(12)(p)

taxation year in the period from carrying on an insurance business,

minus the aggregate of

(iii) its loss, if any, for each taxation year in the period from all insurance businesses carried on by it,

(iv) all losses sustained by the insurer in the period in respect of non-segregated property disposed of by it that was used by it in, or held by it in the course of, carrying on an insurance business in Canada, except to the extent that such losses have been or are included in computing the insurer's income or loss, if any, for any taxation year in the period from carrying on an insurance business,

(v) the aggregate of any taxes payable by the insurer under this Part and any income tax payable by it under the laws of any province for each taxation year in the period, except such portion thereof as would not have been payable by it if subsection (7) had not been enacted,

(vi) all gifts made in the period by the insurer to a person or organization described in paragraph 110(1)(a) or (b), and

(vii) the amount, if any, by which the amount determined in respect of the insurer for the particular taxation year under clause (3)(a)(iii)(A) exceeds the amount so determined under clause (3)(a)(iii)(B); and

(p) in construing the meaning of the expression "group term insurance policy", the definition thereof in section 248 does not apply.

(p). Paragraph 68A(12)(q)

Idem

Conversion  
of provin-  
cial life  
insurance  
corporation  
into mutual  
corporation

**139.** Where a life insurance corporation that is incorporated under the laws of a province has applied an amount in payment for shares of the corporation purchased by it under the authority of a law of the province that provides for the conversion of the corporation into a mutual corporation by the purchase of its shares in accordance with the provisions of such law,

(a) section 15 does not apply to require the inclusion, in computing the income of a shareholder of the corporation of any part of that amount, and

(b) no part of that amount shall be deemed, for the purposes of subsection 138(7), to have been paid to shareholders or, for the purposes of section 84, to have been received as a dividend.

**139. Section 68B**

Deduction  
in  
computing  
income

**140.** In computing the income for a taxation year of an insurance corporation, whether a mutual corporation or a joint stock company, from carrying on an insurance business other than a life insurance business, there may be deducted every amount credited in respect of that business for the year to a policyholder of the corporation by way of dividend, refund of premiums or refund of premium deposits if the amount was, during the year or within 12 months thereafter,

(a) paid to the policyholder,

(b) applied in discharge, in whole or in part, of a liability of the policyholder to pay premiums to the corporation, or

(c) credited to the account of the policyholder on terms that he is entitled to payment thereof on or before expiry or termination of the policy.

**140. Section 74**

Life  
insurance  
corporation  
deemed to  
be public  
corporation

**141.** Notwithstanding any other provision of this Act, a life insurance corporation that is a resident in Canada shall be deemed to be a public corporation.

**141. New**

Election re  
taxable  
capital  
gains,  
etc.

142. (1) Notwithstanding any other provision of this Act, where in a taxation year an insurer (other than a resident of Canada that does not carry on a life insurance business) carried on an insurance business in a country other than Canada,

(a) if the insurer has made an election in respect of the year under subsection 138(9), such of its taxable capital gains for the year and allowable capital losses for the year as were from dispositions of property other than property used by it in the year in, or held by it in the year in the course of, carrying on an insurance business in Canada, and

(b) in any other case, such of its taxable capital gains for the year and allowable capital losses for the year as are prescribed not to relate to an insurance business carried on by it in Canada,

shall not be included in computing its income for the year.

142. (1). New

Portion  
deemed  
taxable  
capital  
gain, etc.,  
of policy-  
holder

(2) Such portion of any taxable capital gain for a taxation year of a life insurance corporation from the disposition of property included in a segregated fund (within the meaning assigned by subsection 148(1))

(a) as would, but for this subsection, have been included in computing the income of the corporation for the year, and

(b) as was allocated in the year by the corporation to a particular policyholder under a policy described in paragraph 148(1)(b),

shall be deemed to be a taxable capital gain of the particular policyholder for the year from the disposition of a capital property and not to have been a capital gain of the corporation for the year from the disposition thereof.

(2). New



*Electric, Gas or Steam Corporations*

Electric,  
gas or  
steam  
corpora-  
tions

143. (1) This section applies to a Canadian corporation whose gross revenue during a taxation year from the sale for delivery in Canada of electrical energy, gas or steam to

(a) persons with whom it deals at arm's length, and

(b) persons with whom it does not deal at arm's length for resale directly or indirectly for delivery in Canada to persons with whom it does deal at arm's length,

is more than  $\frac{1}{2}$  of its total gross revenue for the year, other than exempt income and dividends (in this section referred to as "exempt dividends") received by it to the extent of the amount thereof deductible under section 112 or subsection 113(1) from its income for the year (such a corporation being hereinafter referred to as a "designated corporation").

Taxable  
income

(2) A designated corporation's taxable income for a taxation year from the sale for delivery in Canada of electrical energy, gas or steam to

(a) persons with whom it deals at arm's length, and

(b) persons with whom it does not deal at arm's length for resale directly or indirectly for delivery in Canada to persons with whom it does deal at arm's length,

(hereinafter referred to as its "class A taxable income") shall, for the purposes of this section, be deemed to be the part of its taxable income for the year that its gross revenue for the year from such sales is of its total gross revenue for the year other than exempt income and exempt dividends; and its taxable income for the year from all other sources (hereinafter referred to as its "class B taxable income") shall, for the purposes of this section be deemed to be its taxable income for the year minus its class A taxable income for the year.

143. (1). Subsection 85(1), modified

(2). Subsection 85(2), modified

*Section 143*Tax  
payable

(3) Notwithstanding section 123, the tax payable under this Part by a designated corporation for a taxation year is the aggregate of

(a) 50% of the corporation's class B taxable income for the year, and

(b) 48% of the corporation's class A taxable income for the year.

(3). Subsection 85(3), modified

Exceptions

(4) For the purposes of this section, a transaction shall be deemed not to have been a sale of gas by a corporation unless

(a) the commodity sold was gas for lighting or heating and was not delivered in portable containers, and

(b) the corporation itself had a system for the distribution of gas through which it delivered gas to not less than 100 different customers.

(4). Subsection 85(5)

DIVISION G – DEFERRED AND  
OTHER SPECIAL INCOME ARRANGEMENTS

*Employees Profit Sharing Plans*

“Employees  
profit  
sharing  
plan”  
defined

144. (1) In this Act, an “employees profit sharing plan” means an arrangement under which payments computed by reference to his profits from his business or by reference to his profits from his business and the profits, if any, from the business of a corporation with whom he does not deal at arm's length are made by an employer to a trustee in trust for the benefit of officers or employees of the employer or of a corporation with whom the employer does not deal at arm's length (whether or not payments are also made to the trustee by the officers or employees), and under which the trustee has, since the commencement of the plan or the end of 1949, whichever is the later, each year allocated either contingently or absolutely to individual officers or employees,

(a) all amounts received by him from the employer or from a corporation with whom the employer does not deal at arm's length,

144. (1). Subsection 79(1), modified

*Subsection 144(1)*

(b) all profits from the trust property (computed without regard to any capital gain made by the trust or capital loss sustained by it at any time since the end of 1955),

(c) all capital gains and capital losses of the trust for taxation years ending after 1971, and

(d) all amounts in respect of which employees who have, after 1971, ceased to be beneficiaries under the arrangement are deemed by subsection (9) to have made a payment on account of tax under this Part,

in such manner that the aggregate of all such amounts, profits, gains and losses, minus such portion thereof as has been paid to beneficiaries under the trust, is allocated either contingently or absolutely to officers or employees who are beneficiaries thereunder.

No tax while trust governed by a plan

(2) No tax is payable under this Part by a trust on the taxable income of the trust for a period during which the trust was governed by an employees profit sharing plan.

(2). Subsection 79(2)

Allocation contingent or absolute taxable

(3) There shall be included in computing the income for a taxation year of an employee who is a beneficiary under an employees profit sharing plan each amount that is allocated to him contingently or absolutely by the trustee under the plan at any time in the year otherwise than in respect of

(a) a payment made by the employee to the trustee,

(b) a capital gain made by the trust before 1972,

(c) a capital gain of the trust for a taxation year ending after 1971,

(d) a gain made by the trust after 1971 from the disposition of a capital property except to the extent that the gain is a capital gain described in paragraph (c), or

(e) a taxable dividend received by the trust from a taxable Canadian corporation.

(3). Subsection 79(3), modified

## Section 144

Allocated  
capital  
gains  
and  
losses

(4) Any capital gain of a trust governed by an employees profit sharing plan or any capital loss of the trust for a taxation year ending after 1971 from the disposition of any property shall, to the extent that it has been allocated by the trust to an employee who is a beneficiary under the plan, be deemed to be a capital gain or capital loss, as the case may be, of the employee from the disposition of that property, for the taxation year of the employee in which the allocation was made.

(4). New

Employer's  
contribution to  
trust  
deductible

(5) An amount paid by an employer to a trustee under an employees profit sharing plan during a taxation year or within 120 days thereafter may be deducted in computing the employer's income for the taxation year to the extent that it was not deductible in computing income for a previous taxation year.

(5). Subsection 79(4)

Beneficiary's  
receipts  
deductible

(6) An amount received in a taxation year by a beneficiary from a trustee under an employees profit sharing plan shall not be included in computing the beneficiary's income for the year.

(6). Subsection 79(5)

Beneficiary's  
receipts  
that are  
not de-  
ductible

(7) Notwithstanding subsection (6), such portion of an amount received in a taxation year by a beneficiary from the trustee under an employees profit sharing plan as cannot be established to be attributable to

(7). Subsection 79(6), modified

(a) payments made by the employee to the trustee,

(b) amounts required to be included in computing the income of the employee for that or a previous taxation year,

(c) a capital gain made by the trust before 1972,

(d) a capital gain of the trust for a taxation year ending after 1971,

(e) a gain made by the trust after 1971 from the disposition of a capital property except to the extent that the gain is a capital gain described in paragraph (d),



(f) the portion, if any, of the increase in the value of property transferred to the beneficiary by the trustee that would have been considered to be a capital gain made by the trust in 1971 if the trustee had sold the property on December 31, 1971 for its fair market value at that time, or

(g) a taxable dividend received by the trust from a taxable Canadian corporation,

shall be included in computing the beneficiary's income for the year in which the amount was received.

(8) Where there has been included in computing the income of a trust for a taxation year during which the trust was governed by an employees profit sharing plan taxable dividends from taxable Canadian corporations and there has been allocated by the trustee under the plan for the purposes of this subsection an amount for the year to one or more of the employees who are beneficiaries under the plan, which amount or the aggregate of which amounts does not exceed the amount of the taxable dividends so included, each of the employees who are beneficiaries under the plan shall be deemed to have received a taxable dividend from a taxable Canadian corporation equal to the lesser of

(a) the amount, if any, that would be included in computing his income for the year by virtue of this section, if this section were read without reference to paragraph (3)(e), and

(b) the amount, if any, so allocated for the purposes of this subsection to him.

(8). Subsection 79(6a), modified

(9) For the purposes of section 164, where an employee who is a beneficiary under an employees profit sharing plan ceases, at any time in a taxation year, to be a beneficiary thereunder, and it is established that

(a) there has been included in computing the income of the employee for that or a previous taxation year an amount by virtue

(9). Subsection 79(6c)

Allocation  
of credit  
for  
dividends

Refunds

of any allocation made to him contingently by the trustee under the plan prior to the time he ceased to be a beneficiary thereunder, and

(b) the employee has not at any time received that amount from the trustee under the plan and is not, under the plan, entitled to receive that amount,

the employee shall be deemed to have made, at the time he ceased to be a beneficiary under the plan, a payment equal to 15% of that amount on account of tax under this Part for the taxation year in which he ceased to be a beneficiary under the plan.

Payments  
out of  
profits

(10) Where the terms of an arrangement under which an employer makes payments to a trustee specifically provide that the payments shall be made "out of profits", such arrangement shall, if the employer has so elected in prescribed manner, be deemed, for the purpose of subsection (1), to be an arrangement for payments "computed by reference to his profits from his business".

(10). Subsection 79(7)

Taxation  
year of  
trust

(11) Where an employees profit sharing plan is accepted for registration by the Minister as a deferred profit sharing plan, the taxation year of the trust governed by the employees profit sharing plan shall be deemed to have ended immediately before the plan is deemed to have become registered as a deferred profit sharing plan pursuant to subsection 147(5).

(11). Subsection 79(8)

*Registered Supplementary  
Unemployment Benefit Plans*

Definitions

145. (1) In this Act,

(a) "registered supplementary unemployment benefit plan" means a supplementary unemployment benefit plan accepted by the Minister for registration for the purposes of this Act in respect of its constitution and operations for the taxation year under consideration; and

"Registered  
supplemen-  
tary  
unemploy-  
ment  
benefit  
plan"

145. (1). Subsection 79A(1)

*Subsection 145(1)*

"Supplementary unemployment benefit plan"

(b) "supplementary unemployment benefit plan" means an arrangement, other than an arrangement in the nature of superannuation or pension fund or plan or an employees profit sharing plan, under which payments are made by an employer to a trustee in trust exclusively for the payment of periodic amounts to employees or former employees of the employer who are or may be laid off for any temporary or indefinite period.

No tax while trust governed by plan

(2) No tax is payable under this Part by a trust upon the taxable income of the trust for a period during which the trust was governed by a registered supplementary unemployment benefit plan.

(2). Subsection 79A(2)

Amounts received taxable

(3) There shall be included in computing the income of a taxpayer for a taxation year each amount received by him under a supplementary unemployment benefit plan from the trustee under the plan at any time in the year.

(3). Subsection 79A(3)

Amounts received on amendment or winding-up of plan

(4) There shall be included in computing the income for a taxation year of a taxpayer who, as an employer, has made any payment to a trustee under a supplementary unemployment benefit plan, any amount received by the taxpayer in the year as a result of an amendment to or modification of the plan or as a result of the termination or winding-up of the plan.

(4). Subsection 79A(3a)

Payments by employer deductible

(5) An amount paid by an employer to a trustee under a registered supplementary unemployment benefit plan during a taxation year or within 30 days thereafter may be deducted in computing the employer's income for the taxation year to the extent that it was not deductible in computing income for a previous taxation year.

(5). Subsection 79A(4)

*Registered Retirement Savings Plans*

Definitions

"Annuitant"

146. (1) In this section,  
(a) "annuitant" means an individual referred to in subparagraph (j)(i) or (ii) to whom, under a retirement savings plan, any annuity for life is agreed to be paid or is to be provided;

"Benefit"

(b) "benefit" means any amount paid or payable under a retirement savings plan, otherwise than as a premium;

"Earned income"

(c) "earned income" means the aggregate of  
(i) salary or wages, superannuation or pension benefits, retiring allowances, death benefits, royalties in respect of a work or invention of which the taxpayer was the author or inventor, amounts included in computing the income of the taxpayer by virtue of subsection 6(4), clause 56(1)(a)(i)(B) or paragraph 56(1)(b) or (c), amounts allocated to the taxpayer by a trustee under an employees profit sharing plan, amounts received by the taxpayer from a trustee under a supplementary unemployment benefit plan, amounts included in computing the income of the taxpayer by virtue of this section and amounts included in computing the income of the taxpayer by virtue of subsections 147(10) and (15),  
(ii) income from the carrying on of a business either alone or as a partner actively engaged in the business, and  
(iii) rental income from real property,

minus

(iv) losses from the carrying on of a business either alone or as a partner actively engaged in the business,  
(v) losses from the rental of real property, and  
(vi) amounts deductible under paragraph 60(j) or (m) or under this section in computing the income of the taxpayer;

146. (1).

(a). Paragraph 79B(1)(a)

(b). Paragraph 79B(1)(b)

(c). Subsection 32(5), modified



*Subsection 146(1)*

|                            |  |                          |
|----------------------------|--|--------------------------|
| "Maturity"                 | (d) "maturity" means the date fixed under a retirement savings plan for the commencement of any annuity the payment of which is provided for by the plan;  | (d). Paragraph 79B(1)(d) |
| "Non-qualified investment" | (e) "non-qualified investment" in relation to a trust governed by a registered retirement savings plan means property acquired by the trust after 1971 that is not a qualified investment for such trust;  | (e). New                 |
| "Premium"                  | (f) "premium" means any periodic or other amount paid or payable under a retirement savings plan,<br>(i) as consideration for any agreement referred to in subparagraph (j)(i) to pay an annuity, or<br>(ii) as a contribution referred to in subparagraph (j)(ii) for the purpose stated in that subparagraph;  | (f). Paragraph 79B(1)(e) |
| "Qualified investment"     | (g) "qualified investment" for a trust governed by a registered retirement savings plan means<br>(i) an investment that would be described in any of subparagraphs (i) to (ix) (except subparagraphs (iii) and (vi)) of paragraph 204(e) if the references therein to a trust were read as references to the trust governed by the registered retirement savings plan,<br>(ii) a bond, debenture, note or similar obligation of a corporation the shares of which are listed on a prescribed stock exchange in Canada,<br>(iii) an annuity described in subparagraph (2)(a)(ii) in respect of the annuitant under the plan, if purchased from a person licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada an annuities business, and<br>(iv) such other investments as may be prescribed by regulations of the Governor in Council made on the recommendation of the Minister of Finance; | (g). New                 |

*Subsection 146(1)*

"Refund of premiums"

(h) "refund of premiums" means any amount paid or payable under a retirement savings plan, on or after the death of the annuitant thereunder in the event of his death before maturity, as or on account of

- (i) a return of premiums,
- (ii) reasonable interest on premiums, or
- (iii) a share or interest in or a bonus out of profits or gains;

(h). Paragraph 79B(1)(f)

"Registered retirement savings plan"

(i) "registered retirement savings plan" means a retirement savings plan accepted by the Minister for registration for the purposes of this Act as complying with the requirements of this section; and

(i). Paragraph 79B(1)(g)

"Retirement savings plan"

(j) "retirement savings plan" means

(i) a contract between an individual and a person licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada an annuities business, under which, in consideration of payment by the individual of any periodic or other amount as consideration under the contract, that person agrees to pay to the individual, commencing at maturity, an annuity for life, or

(ii) an arrangement under which payment is made by an individual

(j). Paragraph 79B(1)(h), modified

(A) in trust to a corporation licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada the business of offering to the public its services as trustee, of any periodic or other amount as a contribution under the trust, or

(B) to a corporation approved by the Governor in Council for the purposes of this section that is licensed or otherwise authorized under the laws of Canada or a province to issue investment contracts providing for the payment to or to the credit of the holder thereof of a fixed or determinable amount at maturity, of any periodic or other amount as a contribution under any such contract

*Subsection 146(1)*

between the individual and that corporation,

to be used, invested or otherwise applied by that corporation resident in Canada or that investment corporation, as the case may be, for the purpose of providing to the individual, commencing at maturity, an annuity for life.

Acceptance  
of plan  
for  
registration

(2) The Minister shall not accept for registration for the purposes of this Act any retirement savings plan unless, in his opinion, it complies with the following conditions:

(a) the plan does not

(i) provide for the payment of any benefit before maturity, except by way of a refund of premiums, or

(ii) provide for the payment of any benefit after maturity, except by way of

(A) an annuity to the annuitant for his life, or

(B) an annuity to the annuitant for the lives, jointly, of the annuitant and his spouse and to the survivor of them for his or her life,

commencing at maturity and with or without a guaranteed term, not exceeding 15 years, or, in the case of a plan entered into before the 14th day of March, 1957, not exceeding 20 years, commencing at maturity;

(b) the plan does not

(i) provide for the payment of any amount by way of annuity except

(A) equal annual or other periodic amounts throughout the lifetime of the annuitant, and

(2). Subsection 79B(2)

## Subsection 146(2)

(B) equal annual or other periodic amounts (not exceeding the corresponding annual or other periodic amounts referred to in clause (A)) throughout the period, if any, after the death of the annuitant, for which payment of the annuity is provided for by the plan,

(ii) provide for the payment of any premium after maturity, or

(iii) provide for maturity after such time as the annuitant attains 71 years of age;

(c) the plan includes a provision stipulating that no annuity payable thereunder is capable either in whole or in part of surrender, commutation or assignment; and

(d) the plan in all other respects complies with regulations of the Governor in Council made on the recommendation of the Minister of Finance.

Idem

(3) The Minister may accept for registration for the purposes of this Act any retirement savings plan notwithstanding that the plan

(a) provides for the payment of a benefit after maturity by way of dividend;

(b) provides for any annual or other periodic amount payable

(i) to the annuitant by way of an annuity described in clause (2)(a)(ii)(B), to be reduced, in the event of the death of his spouse during the lifetime of the annuitant, in such manner as to provide for the payment of equal annual or other amounts throughout the lifetime of the annuitant thereafter,

(ii) to any person by way of an annuity, to be reduced if a pension becomes payable to that person under the *Old Age Security Act*, by an annual or other periodic amount not exceeding the amount payable to that person in that period under the *Old Age Security Act*, or

(3). Subsection 79B(3)



(iii) to any person by way of an annuity, to be increased or reduced depending upon the increase or reduction in the value of a specified group of assets constituting the assets of a separate and distinct account or fund maintained in respect of a variable annuities business by a person licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada such business;

(c) provides for the commutation of any annuity payable thereunder

(i) that became so payable on or after the death of the annuitant, or

(ii) if the amount so payable, expressed in terms of a monthly rate, is less than \$5;

(d) in the case of an annuity for a guaranteed term, provides for the annuity to be assignable by will, or, in the event of the death of any person to whom any such annuity is payable, to be assignable by the heirs, executors, administrators or other legal representatives of such person in the distribution of his estate, so as to give effect to any testamentary disposition, or to the rights of any person on an intestacy, or to its appropriation to a legacy or a share or interest in the estate;

(e) is adjoined to a contract or other arrangement that is not a retirement savings plan; or

(f) contains such other terms and provisions, not inconsistent with this section, as are authorized or permitted by regulations of the Governor in Council made on the recommendation of the Minister of Finance.

(4) No tax is payable under this Part by a trust on the taxable income of the trust for a taxation year if, throughout the period in the year during which the trust was in existence, the trust was governed by a registered retirement savings plan, except that

(a) if the trust has borrowed money (other than money used in carrying on a business) in the year or has, after June 18, 1971, borrowed money (other than money used in

(4). Subsection 79B, modified

carrying on a business) that it has not repaid before the commencement of the year, tax is payable under this Part by the trust on its taxable income for the year, and

(b) in any case not described in paragraph (a), if the trust has carried on any business or businesses in the year, tax is payable under this Part by the trust on the amount that its taxable income for the year would be if it had no incomes or losses from sources other than from that business or those businesses.

Amount  
of premium  
deductible

(5) There may be deducted in computing the income for a taxation year of a taxpayer who is an annuitant under a registered retirement savings plan or becomes, within 60 days after the end of the taxation year, an annuitant thereunder, the amount of any premium paid by the taxpayer under the plan during the taxation year or within 60 days after the end of the taxation year (to the extent that it was not deductible in computing his income for a previous taxation year), not exceeding however the amount, if any, by which

(a) in the case of a taxpayer in respect of whom any amount is deductible under paragraph 20(1)(q) or (r) in computing the income of any other person for that taxation year (or would be so deductible if that other person were a person taxable under subsection 2(1)), an amount that, when added to the amount deductible under subparagraph 8(1)(m)(i) in computing the income of the taxpayer for that taxation year, does not exceed the lesser of \$2,500 and 20% of his earned income for that taxation year; and

(b) in the case of any other taxpayer, the lesser of \$4,000 and 20% of his earned income for that taxation year

(5). Subsection 79B(5), modified

*Subsection 146(5)*

exceeds the amount, if any, deductible under subsection (6) in computing his income for that taxation year.

Disposition  
of non-  
qualified  
investment

(6) Where in a taxation year a trust governed by a registered retirement savings plan disposes of a non-qualified investment, the cost of which to the trust was included by virtue of subsection (10) in computing the income of the taxpayer who is the annuitant under the plan, there may be deducted, in computing the income of the taxpayer for the taxation year, an amount equal to the lesser of

(6). New

(a) the cost so included in computing the taxpayer's income, and

(b) the proceeds of disposition of the non-qualified investment.

Recovery of  
property  
used as  
security

(7) Where in a taxation year a loan, for which a trust governed by a registered retirement savings plan has used or permitted to be used trust property as security, ceases to be extant, and the fair market value of the property so used was included by virtue of subsection (10) in computing the income of the taxpayer who is the annuitant under the plan, there may be deducted, in computing the income of the taxpayer for the taxation year, an amount equal to the amount, if any, remaining when

(7) Subsection 105K(5), modified

(a) the net loss (exclusive of payments by the trust as or on account of interest) sustained by the trust in consequence of its using or permitting to be used the property as security for the loan and not as a result of a change in the fair market value of the property

is deducted from

(b) the amount so included in computing the income of the taxpayer in consequence of the trust's using or permitting to be used the property as security for the loan.

## Section 146

- |  |   |                                  |
|--|---|----------------------------------|
| Benefits taxable                                       | (8) There shall be included in computing the income of a taxpayer for a taxation year all amounts received by him in the year as a benefit under a registered retirement savings plan.  | (8). Subsection 79B(6), modified |
| Where disposition of property by trust                 | <p>(9) Where in a taxation year a trust governed by a registered retirement savings plan</p> <p>(a) disposes of property for a consideration less than the fair market value of the property at the time of the disposition, or for no consideration, or</p> <p>(b) acquires property for a consideration greater than the fair market value of the property at the time of the acquisition,</p> <p>the difference between such fair market value and the consideration, if any, shall be included in computing the income for the taxation year of the annuitant under the plan.</p> | (9). New                         |
| Where acquisition of non-qualified investment by trust | <p>(10) Where in a taxation year a trust governed by a registered retirement savings plan</p> <p>(a) acquires a non-qualified investment, or</p> <p>(b) uses or permits to be used any property of the trust as security for a loan,</p> <p>the cost to the trust of the non-qualified investment or the fair market value, at the time the property is used as security, of the property so used, as the case may be, shall be included in computing the income for the year of the taxpayer who is the annuitant under the plan.</p>  | (10). New                        |
| Life insurance policies                                | <p>(11) Subsections 198(6) and (8) are applicable <i>mutatis mutandis</i> to subsections (6), (9) and (10), except that in the application of subsection 198(8) thereto paragraph (a) thereof shall be read as follows:</p> <p>“(a) the trust shall be deemed, for the purposes of subsection 146(6), to have disposed of each non-qualified investment that, by virtue of payments under the policy, it was deemed by subsection 146(10) to have acquired,”.</p>   | (11). New                        |



## Section 146

(12). Subsection 79B(8), modified

Change  
in plan  
after  
registration

(12) Where, at any time after a retirement savings plan has been accepted by the Minister for registration for the purposes of this Act, the plan is revised or amended or a new plan is substituted therefor, and the plan as revised or amended or the new plan substituted therefor, as the case may be, (hereinafter in this subsection referred to as the "amended plan") does not comply with the requirements of this section for its acceptance by the Minister for registration for the purposes of this Act, the following rules apply:

(a) the amended plan shall be deemed, for the purposes of this Act, not to be a registered retirement savings plan; and

(b) there shall be included in computing the income of a taxpayer for a taxation year all amounts received by him in the year that, by virtue of subsection (8) or (9), would have been so included if the amended plan had been a registered retirement savings plan at the time he received those amounts, and no deduction shall be made under paragraph 60(a) in respect of those amounts in computing his income for that year.

Idem

(13) For the purposes of subsection (12), an arrangement under which a right or obligation under a retirement savings plan is released or extinguished either wholly or in part and either in exchange or substitution for any right or obligation, or otherwise (other than an arrangement the sole object and legal effect of which is to revise or amend the plan) or under which payment of any amount by way of loan or otherwise is made on the security of a right under a retirement savings plan, shall be deemed to be a new plan substituted for that retirement savings plan.

(13). Paragraph 79B(9)(b)

Premiums  
paid in  
taxation  
year

(14) Where any amount has been paid in a taxation year as a premium under a retirement savings plan that was, at the end of that taxation year, a registered retirement savings

(14). Subsection 79B(10)

*Subsection 146(14)*

plan, the amount so paid shall be deemed, for the purposes of this Act, to have been paid in that year as a premium under a registered retirement savings plan.

Plan not  
registered  
at end of  
year  
entered  
into

(15) Notwithstanding anything in this section, where an amount is received in a taxation year as a benefit under a registered retirement savings plan that was not, at the end of the year in which the plan was entered into, a registered retirement savings plan, such part, if any, of the amount so received as may be prescribed shall be deemed, for the purposes of this Act, to have been received in the taxation year otherwise than as a benefit or other payment under a registered retirement savings plan.

(15). Subsection 79B(11)

Transfer  
of funds

(16) Notwithstanding anything in this section, a registered retirement savings plan may at any time be revised or amended with the approval of the Minister to provide for the payment or transfer, on behalf of the annuitant under the plan, of any funds thereunder by the person described in paragraph (1)(j) with whom the annuitant has a contract or arrangement

(16). Subsection 79B(12)

(a) to another such person under a registered retirement savings plan, or

(b) as a contribution to or under a registered pension fund or plan,

and upon the payment or transfer of such funds

(c) the amount so paid or transferred on behalf of the annuitant shall not by reason only of such payment or transfer be included in computing his income, and

(d) no deduction may be made under subsection (5) or section 60 in respect of the amount so paid or transferred in computing the income of the taxpayer for a taxation year.

*Deferred Profit Sharing Plans*

|  |   |                                  |
|--|---|----------------------------------|
| Definitions                            | 147. (1) In this Act,   | 147. (1). Subsection 79C(1)      |
| "Deferred profit sharing plan" defined | (a) "deferred profit sharing plan" means a profit sharing plan accepted by the Minister for registration for the purposes of this Act, upon application therefor in prescribed manner by a trustee under the plan and an employer of employees who are beneficiaries under the plan, as complying with the requirements of this section; and  |                                  |
| "Profit sharing plan"                  | (b) "profit sharing plan" means an arrangement under which payments computed by reference to his profits from his business or by reference to his profits from his business and the profits, if any, from the business of a corporation with whom he does not deal at arm's length are or have been made by an employer to a trustee in trust for the benefit of employees of that employer or employees of any other employer, whether or not payments are or have been also made to the trustee by the employees. |                                  |
| Acceptance of plan for registration    | (2) The Minister shall not accept for registration for the purposes of this Act any profit sharing plan unless, in his opinion, it complies with the following conditions:  | (2). Subsection 79C(2), modified |
|  | (a) the plan provides that each payment made under the plan to a trustee in trust for the benefit of beneficiaries thereunder is the aggregate of amounts each of which is required to be allocated by the trustee in the year in which it is received by him, to the individual beneficiary in respect of whom the amount was so paid;   |                                  |
|  | (b) the plan does not provide for the payment of any amount to an employee or other beneficiary thereunder by way of loan;  |                                  |
|  | (c) the plan provides that no part of the funds of the trust governed by the plan may be invested in notes, bonds, debentures or similar obligations of   |                                  |
|  | (i) an employer by whom payments are made in trust to a trustee under the plan for the benefit of beneficiaries thereunder, or  |                                  |

*Subsection 147(2)*

- (ii) a corporation with whom that employer does not deal at arm's length;
- (d) the plan provides that no part of the funds of the trust governed by the plan may be invested in shares of a corporation at least 50% of the property of which consists of notes, bonds, debentures or similar obligations of an employer or a corporation described in paragraph (c);
- (e) the plan includes a provision stipulating that no right or interest under the plan of an employee who is a beneficiary thereunder is capable, either in whole or in part, of surrender or assignment;
- (f) the plan includes a provision stipulating that each of the trustees under the plan shall be resident in Canada;
- (g) the plan provides that, if a corporation licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada the business of offering to the public its services as trustee is not a trustee under the plan, there shall be at least 3 trustees under the plan who shall be individuals;
- (h) the plan provides that all income received, capital gains made and capital losses sustained by the trust governed by the plan must be allocated to beneficiaries under the plan on or before a day 90 days after the end of the year in which they were received, made or sustained, as the case may be, to the extent that they have not been allocated in years preceding that year;
- (i) the plan provides that all amounts allocated or re-allocated by a trustee under the plan to a beneficiary under the plan vest irrevocably in that beneficiary not later than 5 years after the end of the year in which the amounts are so allocated or reallocated unless that beneficiary becomes, before that time, a person who is not an employee of any employer who makes or has made payments under the plan;



(j) the plan provides that a trustee under the plan inform, in writing, all new beneficiaries under the plan of their rights under the plan;

(k) the plan provides that, in respect of each employee who is a beneficiary under the plan, all amounts vested in the employee become payable to the employee or, in the event of his death, to a beneficiary designated by him or to his estate, not later than 90 days after the earliest of

- (i) the death of the employee,
- (ii) the day on which the employee ceases to be employed by an employer who makes or has made payments under the plan to a trustee under the plan,
- (iii) the day on which the employee becomes 71 years of age, and
- (iv) the termination or winding up of the plan,

except that the plan may provide that, upon election by the employee, all or any part of the amounts payable to him may be paid

- (v) in equal instalments payable not less frequently than annually over a period not exceeding 10 years from the day on which the amount became payable, or
- (vi) by a trustee under the plan to a person licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada an annuities business, to purchase for the employee an annuity commencing not later than a day 71 years after the day of his birth, the guaranteed term of which, if any, does not exceed 15 years; and

(l) the plan, in all other respects, complies with regulations of the Governor in Council made on the recommendation of the Minister of Finance.

## Section 147

Acceptance  
of  
employees  
profit  
sharing  
plan for  
registration

(3) The Minister shall not accept for registration for the purposes of this Act any employees profit sharing plan unless all the capital gains of or made by the trust governed by the plan before the date of application for registration of the plan and all the capital losses of or sustained by the trust before that date have been allocated by the trustee under the plan to employees and other beneficiaries thereunder.

(3). Subsection 79C(3), modified

Capital  
gains  
determined

(4) For the purposes of subsections (3) and (11), such amount as may be determined by the Minister, upon request in prescribed manner by the trustee of a trust governed by an employees profit sharing plan, shall be deemed to be the amount of

(4). Subsection 79C(3a), modified

(a) the capital gains of or made by the trust governed by the plan before the date of application for registration of the plan, or

(b) the capital losses of or sustained by the trust before that date,

as the case may be.

Registration  
date

(5) Where a profit sharing plan is accepted by the Minister for registration as a deferred profit sharing plan, the plan shall be deemed to have become registered as a deferred profit sharing plan

(5). Subsection 79C(4), modified

(a) on the date the application for registration of the plan was made, or

(b) where in the application for registration a later date is specified as the date upon which the plan is to commence as a deferred profit sharing plan, on that date.

Deferred  
plan not  
employees  
profit  
sharing  
plan

(6) For a period during which a plan is a deferred profit sharing plan, the plan shall be deemed, for the purposes of this Act, not to be an employees profit sharing plan.

(6). Subsection 79C(5)

## Section 147

No tax  
while trust  
governed  
by plan

(7) No tax is payable under this Part by a trust on the taxable income of the trust for a period during which the trust was governed by a deferred profit sharing plan.

(7). Subsection 79C(6), modified

Amount  
of  
employer's  
contri-  
bution  
deductible

(8) There may be deducted in computing the income of an employer for a taxation year the aggregate of each amount paid by the employer in the year or within 120 days after the end of the year, to a trustee under a deferred profit sharing plan for the benefit of employees of the employer who are beneficiaries under the plan, not exceeding, however, in respect of each individual employee in respect of whom the amounts so paid by the employer were paid by him, an amount equal to the least of

(8). Subsection 79C(7), modified

(a) the aggregate of each amount so paid by the employer in respect of that employee,

(b) \$2,500 minus the amount, if any, deductible under paragraph 20(1)(q) in respect of that employee in computing the income of the employer for the taxation year, and

(c) 20% of the salary or wages paid in the year to the employee by the employer,

to the extent that such amount was not deductible in computing the income of the employer for a previous taxation year.

Limitation  
on  
deduction

(9) Where each of two or more taxpayers not dealing at arm's length would, but for this subsection, be entitled to a deduction under subsection (8) in computing his income for a taxation year in respect of amounts paid by him to a trustee under one or more deferred profit sharing plans in respect of the same person, not more than one of the taxpayers is entitled, in computing his income for that year, to a deduction under that subsection in respect of that person, and in the event of failure on the part of the taxpayers otherwise entitled to a deduction under that subsection to agree as to the taxpayer by whom the deduction may be made, no deduction thereunder may be made by either or any of them in computing his income for that year.

(9). Subsection 79C(8)

## Section 147

(10). Subsection 79C(9)

Amounts  
received  
taxable

(10) There shall be included in computing the income of a beneficiary under a deferred profit sharing plan for a taxation year each amount received by him in the year from a trustee under the plan, minus

- (a) any amounts deductible under subsections (11) and (12) in computing the income of the beneficiary for the year, and
- (b) amounts paid by a trustee under the plan pursuant to the plan to a person described in subparagraph (2)(k)(vi) to purchase an annuity described in that subparagraph.

Portion of  
receipts  
deductible

(11) For the purpose of subsection (10), where an amount was received in a taxation year from a trustee under a deferred profit sharing plan by an employee or other beneficiary thereunder, and the employee was a beneficiary under the plan at a time when the plan was an employees profit sharing plan, the amount deductible under this subsection in computing the income of the beneficiary for the taxation year is such portion of the aggregate of the amounts so received in the year as does not exceed

(11). Subsection 79C(10), modified

(a) the aggregate of

- (i) each amount included in computing the income of the employee for a previous taxation year by virtue of section 144,
- (ii) each amount paid by the employee to a trustee under the plan at a time when it was an employees profit sharing plan, and
- (iii) each amount that was allocated to the employee or other beneficiary by a trustee under the plan, at a time when it was an employees profit sharing plan, in respect of a capital gain made by the trust before 1972,



minus

- (b) the aggregate of
  - (i) each amount received by the employee or other beneficiary in a previous taxation year from a trustee under the plan at a time when it was an employees profit sharing plan,
  - (ii) each amount received by the employee or other beneficiary in a previous taxation year from a trustee under the plan at a time when it was a deferred profit sharing plan, and
  - (iii) each amount allocated to the employee or other beneficiary by a trustee under the plan, at a time when it was an employees profit sharing plan, in respect of a capital loss sustained by the trust before 1972.

Idem.

(12) For the purpose of subsection (10), where an amount was received in a taxation year from a trustee under a deferred profit sharing plan by an employee or other beneficiary thereunder, and the employee has made a payment in the year or a previous year to a trustee under the plan at a time when the plan was a deferred profit sharing plan, the amount deductible under this subsection in computing the income of the beneficiary for the taxation year is such portion of the aggregate of the amounts so received in the year (minus any deduction allowed for the year by subsection (11)) as does not exceed

(12). Subsection 79C(11)

- (a) the aggregate of each amount so paid by the employee in the year or a previous year to the extent that any such payment was not deductible in computing the employee's income,

minus

- (b) the aggregate of each amount received by the employee or other beneficiary from a trustee under the plan, at a time when it was a deferred profit sharing plan, that was deductible under this subsection in computing his income for a previous taxation year.

*Section 147*

Appropriation of trust property by employer

(13) Where funds or property of a trust governed by a deferred profit sharing plan have been appropriated in any manner whatever to or for the benefit of a taxpayer who is

- (a) an employer by whom payments are made in trust to a trustee under the plan, or
- (b) a corporation with whom that employer does not deal at arm's length,

otherwise than in payment of or on account of shares of the capital stock of the taxpayer purchased by the trust, the amount or value of the funds or property so appropriated shall be included in computing the income of the taxpayer for the taxation year of the taxpayer in which the funds or property were so appropriated, unless such funds or property or an amount in lieu thereof equal to the amount or value of such funds or property was repaid to the trust within one year from the end of the taxation year, and it is established by subsequent events or otherwise that the repayment was not made as part of a series of appropriations and repayments.

(13). Subsection 79C(12)

Revocation of registration

(14) Where, at any time after a profit sharing plan has been accepted by the Minister for registration for the purposes of this Act,

(a) the plan has been revised or amended or a new plan has been substituted therefor, and the plan as revised or amended or the new plan substituted therefor, as the case may be, ceased to comply with the requirements of this section for its acceptance by the Minister for registration for the purposes of this Act,

(b) any provision of the plan has not been complied with, or

(c) the plan does not, as of January 1, 1968,

(i) comply with the conditions described in paragraphs (2)(a) to (k), and

(ii) provide that the amounts held by the trust for the benefit of beneficiaries thereunder that remain unallocated on December 31, 1967 must be allocated or reallocated, as the case may be, before 1969,

the Minister may revoke the registration of the plan as of any date following

(14). Subsection 79C(13)

*Subsection 147(14)*

(d) where paragraph (a) applies, the date that the plan ceased so to comply,

(e) where paragraph (b) applies, the date that any provision of the plan was not so complied with, and

(f) where paragraph (c) applies, January 1, 1968,

and he shall thereafter give notice of his action by registered mail to a trustee under the plan and to an employer of employees who are beneficiaries under the plan.

(15) Where the Minister revokes the registration of a deferred profit sharing plan, the plan (hereinafter referred to as the "revoked plan") shall be deemed, for the purposes of this Act, not to be a deferred profit sharing plan, and notwithstanding any other provision of this Act, the following rules shall apply:

(a) the revoked plan shall not be accepted for registration for the purposes of this Act or be deemed to have become registered as a deferred profit sharing plan at any time within a period of one year commencing on the date the plan became a revoked plan;

(b) subsection (7) does not apply to exempt the trust governed by the plan from tax under this Part upon the taxable income of the trust for a taxation year in which, at any time therein, the trust was governed by the revoked plan;

(c) no deduction shall be made by an employer in computing his income for a taxation year in respect of an amount paid by him to a trustee under the plan at a time when it was a revoked plan;

(d) there shall be included in computing the income of a taxpayer for a taxation year

(15). Subsection 79C(14)

Rules  
applicable  
to revoked  
plan

*Subsection 147(15)*

(i) all amounts received by him in the year from a trustee under the revoked plan that, by virtue of subsection (10), would have been so included if the revoked plan had been a deferred profit sharing plan at the time he received those amounts, and

(ii) the amount or value of any funds or property appropriated to or for the benefit of the taxpayer in the year that, by virtue of subsection (13), would have been so included if the revoked plan had been a deferred profit sharing plan at the time of the appropriation of the funds or property; and

(e) the revoked plan shall be deemed, for the purposes of this Act, not to be an employees profit sharing plan.

Payments  
out of  
profits

(16) Where the terms of an arrangement under which an employer makes payments to a trustee specifically provide that the payments shall be made "out of profits", such arrangement shall be deemed, for the purpose of subsection (1), to be an arrangement for payments "computed by reference to his profits from his business".

(16). Subsection 79C(15)

"Other  
beneficiary"  
defined

(17) Where the expression "employee or other beneficiary" under a profit sharing plan occurs in this section, the words "other beneficiary" shall be construed as meaning any person, other than the employee, to whom any amount is or may become payable by a trustee under the plan as a result of payments made to the trustee under the plan in trust for the benefit of employees, including the employee.

(17). Subsection 79C(16)

Inadequate  
considera-  
tion on  
purchase  
from or  
sale to  
trust

(18) Where a trust governed by a deferred profit sharing plan or revoked plan

(a) disposes of property to a taxpayer for a consideration less than the fair market value of the property at the time of the transaction, or for no consideration, or

(18). Subsection 79C(17)



*Subsection 147(18)*

(b) acquires property from a taxpayer for a consideration greater than the fair market value of the property at the time of the transaction,

the difference between such fair market value and the consideration, if any, shall be deemed to be,

(c) for the purposes of subsection (10), an amount received by the taxpayer from a trustee under the plan as if the taxpayer were a beneficiary under the plan, and

(d) for the purposes of section 201, an amount forfeited in the trust and reallocated to the taxpayer, as if the taxpayer were an employee who was a beneficiary under the plan,

at the time of the disposal or acquisition, as the case may be.

*Life Insurance Policies*

Amounts  
included in  
computing  
policy-  
holder's  
income

148. (1) There shall be included in computing the income for a taxation year of a policyholder,

(a) in respect of any life insurance policy other than an annuity contract, the amount, if any, by which the proceeds of the disposition of an interest in the policy that he became entitled to receive in the year exceeds the adjusted cost basis of the policy to the policyholder as of the time of the disposition; and

(b) in respect of any life insurance policy (other than a policy that is a registered retirement savings plan or that is or is issued pursuant to a registered pension fund or plan) all or any part of the insurer's reserves for which vary in amount depending upon the fair market value of a specified group of assets (in this section referred to as a "segregated fund"), such portion of any amount allocated to the policyholder in the year under the policy as was allocated out of gross revenue of the insurer from the segregated fund, other than gross revenue that is a dividend (other than a taxable dividend) received by the insurer on a share of the capital stock of any corporation.

148. (1). Subsection 79D(1), modified

## Section 148

## (2). Subsection 79D(2)

(2) For the purposes of subsection (1) and paragraph (9)(a), where at a particular time a policyholder became entitled to receive under a life insurance policy an amount as, on account or in lieu of payment of, or in satisfaction of, a policy dividend, the policyholder shall be deemed to have disposed of an interest in the policy at that time and that amount shall be deemed to be proceeds of the disposition that he became entitled to receive at that time.

## (3). Subsection 79D(3)

(3) For the purposes of this section, where all or any part of an insurer's reserves for a life insurance policy vary in amount depending upon the fair market value of a segregated fund,

(a) in computing the adjusted cost basis of the policy,

(i) an amount paid by the policyholder or on his behalf as or on account of premiums under the policy or to acquire an interest in the policy shall, to the extent that such amount was used by the insurer to acquire property for the purposes of the segregated fund, be deemed not to have been so paid, and

(ii) any transfer of property by the insurer from the segregated fund that resulted in an increase in the portion of its reserves for the policy that do not vary with the fair market value of the fund shall be deemed to have been a premium paid under the policy by the policyholder;

(b) the proceeds of the disposition of an interest in the policy shall be deemed not to include the portion thereof, if any, payable out of the segregated fund; and

(c) any transfer of property by the insurer to the segregated fund that resulted in an increase in the portion of the insurer's reserves for the policy that vary with the fair market value of the segregated fund and in a decrease in the portion of its reserves for the policy that do not so vary, shall be deemed to be a disposition of an interest in the policy entitling the policyholder to receive proceeds of disposition equal to the amount of the increase.

Policy dividends deemed to be proceeds of disposition

Special rules for certain policies

## Section 148

(4). Subsection 79D(4), modified

Dividend  
deduction  
from tax

(4) That proportion of any policyholder allocation from a segregated fund made to a policyholder by an insurer at any time in its taxation year that

(a) such portion of the insurer's gross revenue for the year from the fund as was taxable dividends received by it in the year from taxable Canadian corporations

is of

(b) the insurer's gross revenue for the year from the fund,

shall be deemed to be a taxable dividend received by the policyholder from a taxable Canadian corporation in respect of shares of the capital stock thereof.

Deductions  
for foreign  
tax

(5) For the purposes of section 126 the following rules apply:

(5). Subsection 79D(5)

(a) that proportion of any policyholder allocation from a segregated fund made by an insurer to a policyholder at any time in its taxation year that

(i) such portion of the insurer's gross revenue for the year from the fund as was dividends or interest payments received by it in the year from a non-resident person

is of

(ii) the insurer's gross revenue for the year from the fund

shall be deemed to be income of the policyholder from sources in a country other than Canada; and

(b) the policyholder shall be deemed to have paid as income tax to the government of that other country, on the amount deemed by paragraph (a) to be his income from sources in that other country, an amount equal to that proportion of the allocation that

(i) the aggregate of taxes paid by the insurer to the governments of countries other than Canada for the year in respect of the dividends and interest payments so received by it (to the extent that such taxes were deducted in calculating, for

*Subsection 148(5)*

the purposes of the relevant authority,  
the amount of the fund as of the end of  
the year)

is of

(ii) the insurer's gross revenue for the  
year from the fund.

Proceeds  
receivable  
as  
annuity

(6) Where, under the terms of a life insurance policy other than an annuity contract, a policyholder became entitled to receive from the insurer at a particular time before the death of the person whose life was insured thereunder, all of the proceeds (other than policy dividends) payable at that time under the policy in the form of an annuity contract or annuity payments,

(6). Subsection 79D(7)

(a) the payments shall be regarded as annuity payments made under an annuity contract;

(b) the purchase price of the annuity contract shall be deemed to be the adjusted cost basis of the policy to the policyholder immediately before the first payment under that contract became payable; and

(c) the annuity contract or annuity payments shall be deemed not to be proceeds of the disposition of an interest in the policy.

Disposition  
at non-  
arm's  
length and  
similar  
cases

(7) Where an interest of a policyholder in a life insurance policy other than an annuity contract is disposed of by way of gift (whether during his lifetime or by his will), by distribution from a corporation or by operation of law only to any person, or in any manner whatever to any person with whom the policyholder was not dealing at arm's length, the policyholder shall be deemed thereupon to become entitled to receive proceeds of the disposition equal to the value of the interest at the time of the disposition, and the person who acquires the interest by virtue of the disposition shall be deemed to acquire it at a cost equal to such value.

(7). Subsection 79D(8)

(8) Where

(a) a policyholder owned an interest in a life insurance policy on October 22, 1968 and has not disposed of it on or before the policy's tax anniversary date, and

(8). Subsection 79D(9)

Policy  
held on  
October  
22, 1968



*Subsection 148(8)*

(b) the value of the interest on the policy's tax anniversary date (computed without regard to any premium that became payable on that date) exceeds the adjusted cost basis of the policy as of that date (computed without reference to this subsection and without regard to any premium that became payable on that date, but after deducting all policy dividends that became payable on that date),

the policyholder shall, for the purposes of paragraph (9)(a), be deemed

(c) to have acquired the interest on the policy's tax anniversary date at a cost equal to its value referred to in paragraph (b),

(d) to have not, on or before that date, been entitled to receive any proceeds of disposition of an interest in the policy, and

(e) to have not, before that date, paid or had paid on his behalf any amount as or on account of premiums payable under the policy.

## Definitions

"adjusted cost basis"

(9) In this section,

(a) "adjusted cost basis" to a policyholder as of a particular time of an interest in a life insurance policy means the amount, if any, by which

(i) the aggregate of the cost to him of acquiring all his interests in the policy and all amounts paid by him or on his behalf before that time as or on account of premiums under the policy,

exceeds

(ii) all proceeds of disposition of his interests in the policy that he became entitled to receive before that time, except to the extent that such proceeds were required to be included in computing his income for a taxation year by virtue of paragraph (1)(a);

"Cash surrender value"

(b) "cash surrender value" at a particular time of a life insurance policy means its cash surrender value at that time computed without regard to any policy dividends payable thereunder or any interest payable on such dividends;

(9). Subsection 79D(10), modified

*Subsection 148(9)*

“Disposition”

(c) “disposition” in relation to a life insurance policy or an interest therein includes a surrender or termination, a disposition by operation of law only, or the maturity of the policy, but does not include

- (i) a termination of the policy in consequence of the death of any person whose life was insured under the policy,
- (ii) an assignment of all or any part of any interest in the policy for the purpose only of securing a debt or a loan, or
- (iii) a lapse of the policy in consequence of the premiums under the policy remaining unpaid, if the policy was reinstated not later than 60 days after the end of the calendar year in which the lapse occurred;

“Life insurance policy” and “relevant authority”

(d) “life insurance policy” and “relevant authority” have the meaning given those expressions in subsection 138(12);

“Policyholder allocation” from a segregated fund

(e) “policyholder allocation” from a segregated fund means an amount allocated by an insurer to a policyholder that is required by paragraph (1)(b) to be included in computing the policyholder’s income;

“Tax anniversary date”

(f) “tax anniversary date” in relation to a life insurance policy means the second anniversary date of the policy to occur after October 22, 1968; and

“Value”

(g) “value” at a particular time of an interest in a life insurance policy means,

- (i) where the interest includes an interest in the cash surrender value of the policy, the amount in respect thereof that the holder of the interest would be entitled to receive if the policy were surrendered at that time, and
- (ii) in any other case, nil.

(g). Paragraph 79D(10)(h)

## DIVISION H – EXEMPTIONS

149. (1) No tax is payable under this Part upon the taxable income of a person for a period when that person was

149. (1). Subsection 62(1), modified

Employees  
of a coun-  
try other  
than  
Canada

(a) an officer or servant of the government of a country other than Canada whose duties require him to reside in Canada

(a). Paragraph 62(1)(a)

(i) if, immediately before assuming such duties, he resided outside Canada,

(ii) if that country grants a similar privilege to an officer or servant of Canada of the same class,

(iii) if he was not, at any time in the period, engaged in a business or performing the duties of an office or employment in Canada other than his position with that government, and

(iv) if he was not during the period a Canadian citizen;

Members of  
the family  
and  
servants of  
employees of  
a  
country  
other than  
Canada

(b) a member of the family of a person described in paragraph (a) who resides with that person, or a servant employed by a person described in paragraph (a),

(b). Paragraph 62(1)(ab)

(i) if the country of which the person described in paragraph (a) is an officer or servant grants a similar privilege to members of the family residing with and servants employed by an officer or servant of Canada of the same class,

(ii) if he was not, in the case of a member of the family, at any time lawfully admitted to Canada for permanent residence, or at any time in the period engaged in a business or performing the duties of an office or employment in Canada,

(iii) if, in the case of a servant, immediately before assuming his duties as a servant of a person described in paragraph (a), he resided outside Canada and since first assuming such duties in Canada he has not at any time engaged in a business in Canada or been employed in Canada other than by a person described in paragraph (a), and

(iv) if he was not during the period a Canadian citizen;

*Subsection 149(1)*Municipal  
authorities

(c) a municipality in Canada, or a municipal or public body performing a function of government in Canada;

(c). Paragraph 62(1)(b)

Municipal  
or  
provincial  
corpora-  
tions

(d) a corporation, commission or association not less than 90% of the shares or capital of which was owned by Her Majesty in right of Canada or a province or by a Canadian municipality, or a wholly-owned corporation subsidiary to such a corporation, commission or association but this paragraph does not apply

(d). Paragraph 62(1)(c)

(i) to such corporation, commission or association if a person other than Her Majesty in right of Canada or a province or a Canadian municipality had, during the period, a right under a contract, in equity or otherwise either immediately or in the future and either absolutely or contingently, to, or to acquire, shares or capital of that corporation, commission or association, and

(ii) to such wholly-owned subsidiary corporation if a person other than Her Majesty in right of Canada or a province or a Canadian municipality had, during the period, a right under a contract, in equity or otherwise either immediately or in the future and either absolutely or contingently, to, or to acquire, shares or capital of that wholly-owned subsidiary corporation or of the corporation, commission or association of which it is a wholly-owned subsidiary corporation;

Certain  
organiza-  
tions

(e) an agricultural organization, a board of trade or a chamber of commerce, no part of the income of which was payable to, or was otherwise available for the personal benefit of, any proprietor, member or shareholder thereof;

(e). Paragraph 62(1)(d)

Charitable  
organiza-  
tions

(f) a charitable organization, whether or not incorporated, all the resources of which were devoted to charitable activities carried on by the organization itself and no part of the income of which was payable to, or was otherwise available for the personal benefit of, any proprietor, member or shareholder thereof;

(f). Paragraph 62(1)(e)



## Subsection 149(1)

Non-profit  
corporation

(g) a corporation that was constituted exclusively for charitable purposes, no part of whose income was payable to, or was otherwise available for the personal benefit of, any proprietor, member or shareholder thereof, that has not, since June 1, 1950, acquired control of any other corporation and that, during the period,

- (i) did not carry on any business,
- (ii) had no debts incurred since June 1, 1950, other than obligations arising in respect of salaries, rents and other current operating expenses, and
- (iii) except in the case of a corporation that was, before 1940, constituted exclusively for charitable purposes, expended amounts each of which is

(A) an expenditure in respect of charitable activities carried on by the corporation itself,

(B) a gift to an organization in Canada the income of which for the period is exempt from tax under this Part by virtue of paragraph (f),

(C) a gift to a corporation resident in Canada the income of which for the period is exempt from tax under this Part by virtue of this paragraph, or

(D) a gift to Her Majesty in right of Canada or a province or to a Canadian municipality, and

the aggregate of which is not less than 90% of the corporation's income for the period;

(g). Paragraph 62(1)(f)

Charitable  
trusts

(h) a trust all the property of which is held absolutely in trust exclusively for charitable purposes, that has not, since June 1, 1950, acquired control of any corporation and that, during the period,

- (i) did not carry on any business,
- (ii) had no debts incurred since June 1, 1950, other than obligations arising in respect of salaries, rents and other current operating expenses, and

(h). Paragraph 62(1)(g)

## Subsection 149(1)

(iii) expended amounts each of which is

- (A) an expenditure in respect of charitable activities carried on by the trust itself,
- (B) a gift to an organization in Canada the income of which for the period is exempt from tax under this Part by virtue of paragraph (f), or
- (C) a gift to a corporation resident in Canada the income of which for the period is exempt from tax under this Part by virtue of paragraph (g), and

the aggregate of which is not less than 90% of the income of the trust for the period;

Certain  
housing  
corporations

(i) a corporation that was constituted exclusively for the purpose of providing low-cost housing accommodation for the aged, no part of the income of which was payable to, or was otherwise available for the personal benefit of, any proprietor, member or shareholder thereof;

(i). Paragraph 62(1)(ga)

Non-profit  
corporation  
for  
scientific  
research

(j) a corporation that was constituted exclusively for the purpose of carrying on or promoting scientific research, no part of whose income was payable to, or was otherwise available for the personal benefit of, any proprietor, member or shareholder thereof, that has not acquired control of any other corporation and that, during the period,

(j). Paragraph 62(1)(gc)

- (i) did not carry on any business, and
- (ii) expended amounts in Canada each of which is

- (A) an expenditure on scientific research directly undertaken by or on behalf of the corporation, or

- (B) a payment to an association, university, college or research institution, described in subparagraph 37(1)(a)(ii) or (iii) to be used for scientific research, and

the aggregate of which is not less than 90% of the corporation's income for the period;

## Subsection 149(1)

|  |   |                                   |
|--|---|-----------------------------------|
| Labour organizations   | (k) a labour organization or society or a benevolent or fraternal benefit society or order;   | (k). Paragraph 62(1)(h)           |
| Non-profit organizations   | (l) a club, society or association organized and operated exclusively for social welfare, civic improvement, pleasure or recreation or for any other purpose except profit, no part of the income of which was payable to, or was otherwise available for the personal benefit of, any proprietor, member or shareholder thereof; | (l). Paragraph 62(1)(i)           |
| Mutual insurance corporations                                    | (m) a mutual insurance corporation that received its premiums wholly from the insurance of churches, schools or other charitable organizations;   | (m). Paragraph 62(1)(j)           |
| Housing corporation  | (n) a limited dividend housing corporation within the meaning of that expression as defined by the <i>National Housing Act</i> ;  | (n). Paragraph 62(1)(l), modified |
| Pension trust or corporation                                     | (o) a trust or corporation established or incorporated solely in connection with, or for the administration of, a registered pension fund or plan;  | (o). Paragraph 62(1)(q), modified |
| Trust under profit sharing plan                                  | (p) a trust under an employees profit sharing plan to the extent provided by section 144;   | (p). Paragraph 62(1)(r)           |
| Trust under a registered supplementary unemployment benefit plan | (q) a trust under a registered supplementary unemployment benefit plan to the extent provided by section 145;   | (q). Paragraph 62(1)(ra)          |
| Trust under registered retirement savings plan                   | (r) a trust under a registered retirement savings plan to the extent provided by section 146;   | (r). Paragraph 62(1)(rb)          |
| Trust under deferred profit sharing plan                         | (s) a trust under a deferred profit sharing plan to the extent provided by section 147; or  | (s). Paragraph 62(1)(rc)          |

## Subsection 149(1)

Farmers' and fishermen's insurers

(t) an insurer, who was engaged during the period in no business other than insurance, if, in the opinion of the Minister on the advice of the Superintendent of Insurance, 50% of its gross premium income for the period was in respect of the insurance of farm property, property used in fishing or residences of farmers or fishermen.

(t). Paragraph 62(1)(s)

Income not to include taxable capital gains

(2) For the purposes of paragraphs (1)(e) to (j) and paragraph (1)(l), in computing the part, if any, of any income that was payable to or otherwise available for the personal benefit of any person or the aggregate of any amounts that is not less than a percentage specified in any of those paragraphs of any income for a period, the amount of such income shall be deemed to be the amount thereof otherwise determined less the amount of any taxable capital gains included therein.

(2). New

SS. (1) not applicable

(3) Subsection (1) does not apply in respect of the taxable income of a benevolent or fraternal benefit society or order from carrying on a life insurance business.

(3). Subsection 62(1a)

Idem

(4) For the purposes of subsection (3), the taxable income of a benevolent or fraternal benefit society or order from carrying on a life insurance business shall be computed on the assumption that it had no income or loss from any other sources.

(4). Subsection 62(1b)

Exception re investment income of certain clubs

(5) Notwithstanding subsection (1) and (2), where a club, society or association was for any period, a club, society or association described in paragraph (1)(l) the main purpose of which was to provide dining, recreational or sporting facilities for its members (in this subsection referred to as the "club"), an *inter vivos* trust shall be deemed to have been created on the later of the commencement of the period and the end of 1971 and to have continued in existence throughout the period; and, throughout that period, the following rules apply:

(5). New

(a) the property of the club shall be deemed to the property of the trust;



*Subsection 149(5)*

(b) where the club is a corporation, the corporation shall be deemed to be the trustee having control of the trust property;

(c) where the club is not a corporation, the officers of the club shall be deemed to be the trustees having control of the trust property;

(d) tax under this Part is payable by the trust upon its taxable income for each taxation year;

(e) the income and taxable income of the trust for each taxation year shall be computed on the assumption that it had no incomes or losses other than

(i) incomes and losses from property, and

(ii) taxable capital gains and allowable capital losses from dispositions of property, other than property used exclusively for and directly in the course of providing the dining, recreational or sporting facilities provided by it for its members;

(f) in computing the taxable income of the trust for each taxation year

(i) there may be deducted, in addition to any other deductions permitted by this Part, \$2,000, and

(ii) no deduction shall be made under section 109, 112 or 113 or paragraph 110(1)(d);

(g) the provisions of subdivision k of Division B (except subsections 104(1) and (2)) do not apply in respect of the trust; and

(h) Part VII does not apply in respect of dividends received by the trust.

Appor-  
tionment  
rule

(6) Where it is necessary for the purpose of this section to ascertain the taxable income of a taxpayer for a period that is a part of a taxation year, the taxable income for the period shall be deemed to be the proportion of the taxable income for the taxation year that the number of days in the period is of the number of days in the taxation year.

(6). Subsection 62(2)

## Section 149

(7) For the purpose of paragraph (1)(g) or (h),

(a) a corporation is controlled by another corporation or by a trust if more than 50% of its issued share capital (having full voting rights under all circumstances) belongs to

(i) the other corporation or the trust, or

(ii) the other corporation or the trust and persons with whom the other corporation or the trust does not deal at arm's length,

but a corporation or trust shall be deemed not to have acquired control of a corporation if it has not purchased (or otherwise acquired for a consideration) any of the shares in the capital stock of that corporation;

(b) there shall be included in computing a corporation's or trust's income all gifts received by the corporation or trust other than

(i) a gift received subject to a trust or direction that the property given, or property substituted therefor, is to be held permanently by the corporation or trust for the purpose of gaining or producing income therefrom, or

(ii) a gift or a portion of a gift in respect of which it is established that the donor has not been allowed a deduction under paragraph 110(1)(a) or a gift made by a person who was not taxable under section 2 for the taxation year in which the gift was made; and

(c) subsections 104(6) and (12) are not applicable in determining a trust's income.

(7). Subsection 62(3), modified

When deemed not to have acquired control of another corporation

Gifts

Idem

(8) For the purpose of paragraph (1)(j)

(a) a corporation is controlled by another corporation if more than 50% of its issued share capital (having full voting rights under all circumstances) belongs to

(i) the other corporation, or

(ii) the other corporation and persons with whom the other corporation does not deal at arm's length,

(8). Subsection 62(3a)

*Subsection 149(8)*

but a corporation shall be deemed not to have acquired control of a corporation if it has not purchased (or otherwise acquired for a consideration) any of the shares in the capital stock of that corporation; and

(b) there shall be included in computing a corporation's income all gifts received by the corporation and all amounts contributed to the corporation to be used for scientific research.

Rules

(9) In computing the income of a corporation or a trust for the purpose of determining whether it is described by paragraph (1)(g), (h) or (j) for a taxation year

(a) there may be deducted an amount not exceeding its income for the year preceding the taxation year computed without including or deducting any amount under this subsection, and

(b) there shall be included any amount that has been deducted under this subsection for the immediately preceding taxation year.

(10) For the purpose of determining whether a corporation or trust has complied with the requirements of subparagraph (1)(g)(iii), (1)(h)(iii) or (1)(j)(ii) for its first taxation year after its incorporation or creation, the whole or any part of amounts expended by it in the immediately subsequent taxation year shall, if it so elects, be deemed to have been expended by it in the first taxation year and not in the subsequent taxation year.

(9). Subsection 62(4)

(10). Subsection 62(5)

DIVISION I—RETURNS, ASSESSMENTS,  
PAYMENT AND APPEALS

*Returns*

Returns

150. (1) A return of the income for each taxation year in the case of a corporation and for each taxation year for which a tax is payable in the case of an individual shall, without notice or demand therefor, be filed with the Minister in prescribed form and containing prescribed information,

(a) in the case of a corporation, by or on behalf of the corporation within 6 months from the end of the year,

150. (1). Subsection 44(1)

Corporations

*Subsection 150(1)*

|                                |  |                                 |
|--------------------------------|--|---------------------------------|
| Deceased persons               | (b) in the case of a person who has died without making the return, by his legal representatives, within 6 months from the day of death,   |                                 |
| Trusts or estates              | (c) in the case of an estate or trust, within 90 days from the end of the year,  |                                 |
| Individuals                    | (d) in the case of any other person, on or before April 30, in the next year, by that person or, if he is unable for any reason to file the return, by his guardian, curator, tutor, committee or other legal representative, or   |                                 |
| Designated persons             | (e) in a case where no person described by paragraph (a), (b) or (d) has filed the return, by such person as is required by notice in writing from the Minister to file the return, within such reasonable time as the notice specifies.   |                                 |
| Demands for returns            | (2) Whether or not he is liable to pay tax under this Part for a taxation year and whether or not a return has been filed under subsection (1) or (3), every person shall, on demand from the Minister, served personally or by registered letter, file, within such reasonable time as may be stipulated therein, with the Minister in prescribed form and containing prescribed information a return of the income for the taxation year designated therein. | (2). Subsection 44(2)           |
| Trustees, etc.                 | (3) Every trustee in bankruptcy, assignee, liquidator, curator, receiver, trustee or committee and every agent or other person administering, managing, winding-up, controlling or otherwise dealing with the property, business, estate or income of a person who has not filed a return for a taxation year as required by this section shall file a return in prescribed form of that person's income for that year.  | (3). Subsection 44(3)           |
| Death of partner or proprietor | (4) Where a partner or an individual who is a proprietor of a business died after the close of a fiscal period but before the end of the calendar year in which the fiscal period closed,  | (4). Subsection 44(4), modified |



a separate return of the taxpayer's income as a member of the partnership or as a proprietor of the business, after the close of the fiscal period to the time of death, may be filed and, if such a separate return is filed, the tax under this Part shall be paid on the taxpayer's income as such member or proprietor after the close of the fiscal period to the time of death as if that income were the income of another person.

### *Estimate of Tax*

Estimate  
of tax

**151.** Every person required by section 150 to file a return of income shall in the return estimate the amount of tax payable.

**151.** Section 45

### *Assessment*

Assess-  
ment

**152.** (1) The Minister shall, with all due despatch, examine each return of income and assess the tax for the taxation year and the interest and penalties, if any, payable.

**152.** (1). Subsection 46(1)

Idem

(2) After examination of a return, the Minister shall send a notice of assessment to the person by whom the return was filed.

(2). Subsection 46(2)

Idem

(3) Liability for the tax under this Part is not affected by an incorrect or incomplete assessment or by the fact that no assessment has been made.

(3). Subsection 46(3)

Idem

(4) The Minister may at any time assess tax, interest or penalties under this Part or notify in writing any person by whom a return of income for a taxation year has been filed that no tax is payable for the taxation year, and may

(4). Subsection 46(4), modified

(a) at any time, if the taxpayer or person filing the return

(i) has made any misrepresentation that is attributable to neglect, carelessness or wilful default or has committed any fraud in filing the return or in supplying any information under this Act, or

*Subsection 152(4)*

(ii) has filed with the Minister a waiver in prescribed form within 4 years from the day of mailing of a notice of an original assessment or of a notification that no tax is payable for a taxation year, and

(b) within 4 years from the day referred to in subparagraph (a)(ii), in any other case, reassess or make additional assessments, or assess tax, interest or penalties under this Part, as the circumstances require.

Idem

(5) Notwithstanding subsection (4), there shall not be included in computing the income of a taxpayer, for the purpose of any reassessment, additional assessment or assessment of tax, interest or penalties under this Part that is made after the expiration of 4 years from the day referred to in subparagraph (4)(a)(ii), any amount

(a) that was not included in computing his income for the purposes of an assessment of tax under this Part made prior to the expiration of 4 years from that day, and

(b) in respect of which the taxpayer establishes that the failure so to include it did not result from any misrepresentation that is attributable to neglect, carelessness or wilful default or from any fraud in filing a return of his income or in supplying any information under this Act.

(5). New

Idem

(6) Where a taxpayer has filed the return of income required by section 150 for a taxation year and, within one year from the day on or before which he was required by section 150 to file the return for that year, has filed an amended return for the year claiming a deduction from income under section 111 in respect of a loss for the taxation year immediately following that year, the Minister shall reassess the taxpayer's tax for the year.

(6). Subsection 46(5), modified

*Section 152*

Idem (7) The Minister is not bound by a return or information supplied by or on behalf of a taxpayer and, in making an assessment, may, notwithstanding a return or information so supplied or if no return has been filed, assess the tax payable under this Part.

(7). Subsection 46(6)

Idem (8) An assessment shall, subject to being varied or vacated on an objection or appeal under this Part and subject to a reassessment, be deemed to be valid and binding notwithstanding any error, defect or omission therein or in any proceeding under this Act relating thereto.

(8). Subsection 46(7)

*Payment of Tax*

With-  
holding

153. (1) Every person paying

- (a) salary or wages or other remuneration to an officer or employee,
- (b) a superannuation or pension benefit,
- (c) a retiring allowance,
- (d) an amount upon or after the death of an officer or employee, in recognition of his service, to his legal representative or widow or to any other person whatsoever,
- (e) an amount as a benefit under a supplementary unemployment benefit plan,
- (f) an annuity payment,
- (g) fees, commissions or other amounts for services, or
- (h) a payment under a deferred profit sharing plan or a plan referred to in section 147 as a revoked plan,

153. (1). Subsection 47(1)

at any time in a taxation year shall deduct or withhold therefrom such amount as may be prescribed and shall, at such time as may be prescribed, remit that amount to the Receiver General of Canada on account of the payee's tax for the year under this Part.

## Section 153

Payment  
of re-  
mainder

(2) Where amounts have been deducted or withheld under this section from the remuneration received by an individual in a taxation year, if remuneration from which such amounts have been deducted or withheld and which he had received in the year is equal to or greater than three-quarters of his income for the year, he shall, on or before April 30 in the next year, pay to the Receiver General of Canada the remainder of his tax for the year as estimated under section 151.

(2). Subsection 47(2)

Effect of  
deduction

(3) When an amount has been deducted or withheld under subsection (1), it shall, for all the purposes of this Act, be deemed to have been received at that time by the person to whom the remuneration, benefit, payment, fees, commissions or other amounts were paid.

(3). Subsection 47(3)

Dividends  
received  
by brokers

(4) Where an amount has been received by a broker or dealer in securities in the period of twelve months immediately preceding a taxation year as or in respect of dividends on shares the beneficial ownership of which is unknown to him at the end of the taxation year, the broker or dealer shall remit an amount equal to 25% thereof to the Receiver General of Canada at such time as may be prescribed on account of the beneficial owner's tax under this Part or Part XIII for the taxation year in which the dividend was received by the broker or dealer.

(4). Subsection 47(4)

Effect of  
deduction

(5) Where an amount has been remitted to the Receiver General under subsection (4), it shall for all purposes of this Act be deemed,

(5). Subsection 47(5)

(a) to have been received by the beneficial owner of the dividends, and

(b) to have been deducted or withheld from such amount as would otherwise be payable by the broker or dealer to the beneficial owner in respect of the dividends.

Payment  
authorized

154. (1) The Minister may, with the approval of the Governor in Council, enter into an agreement with the government of a province to provide for tax transfer payments and the terms and conditions relating to such payments.

154. (1). Subsection 47A(1)



(5). Subsection 47A(5)

Farmers  
and  
fishermen

155. Every individual whose chief source of income is farming or fishing shall pay to the Receiver General of Canada

(a) on or before December 31 in each taxation year,  $\frac{2}{3}$  of the tax as estimated by him at the rates for the year on his estimated taxable income for the year or on his taxable income for the immediately preceding year, and

(b) on or before April 30 in the next year, the remainder of the tax as estimated under section 151.

155. Section 48

Other in-  
dividuals

156. Every individual other than one to whom subsection 153(2) or section 155 applies, shall pay to the Receiver General of Canada

(a) on or before March 31, June 30, September 30 and December 31, respectively, in each taxation year, an amount equal to  $\frac{1}{4}$  of the tax estimated by him at the rates for the year on his estimated taxable income for the year or on his taxable income for the immediately preceding year, and

(b) on or before April 30 in the next year, the remainder of the tax as estimated under section 151.

156. Section 49

Corpora-  
tions

157. (1) Every corporation shall, during the 15 months period ending 3 months after the close of each taxation year, pay to the Receiver General of Canada

(a) either

(i) on or before the last day of each of the first 12 months in that period, an amount equal to  $\frac{1}{12}$  of the tax as estimated by it at the rate for the taxation year on its estimated taxable income for the year, or  
(ii) on or before the last day of each of the first 2 months in that period, an amount equal to  $\frac{1}{12}$  of the tax as estimated by it at the rate for the taxation year on its taxable income for the second taxation year preceding the year, and on or before the last day of each of the next following 10 months in

157. (1). Subsection 50(1)

*Subsection 157(1)*

that period, an amount equal to 1/10 of the amount remaining after deducting the amount computed pursuant to this subparagraph in respect of the first 2 months in the period from the tax as estimated by it at the rate for the taxation year on its taxable income for the immediately preceding year; and

(b) on or before the last day of the period, the remainder of the tax as estimated under section 151.

Special  
case

(2) Where a corporation has held forth the prospect that it will make allocations in proportion to patronage to its customers of a taxation year as described by section 135 and its taxable income for the year is estimated by it to be not more than \$10,000, it may, instead of paying the instalments required by subsection (1), pay to the Receiver General of Canada, at the end of the period referred to in subsection (1), the whole of the tax as estimated under section 151.

(2). Subsection 50(2)

Payment of  
remainder

**158.** (1) The taxpayer shall, within 30 days from the day of mailing of the notice of assessment, pay to the Receiver General of Canada any part of the assessed tax, interest and penalties then remaining unpaid, whether or not an objection to or appeal from the assessment is outstanding.

(2) Where, in the opinion of the Minister, a taxpayer is attempting to avoid payment of taxes, the Minister may direct that all taxes, penalties and interest be paid forthwith upon assessment.

**158.** (1). Subsection 51(1)

(2). Subsection 51(2)

Payments  
on behalf  
of others

**159.** (1) Every person required by section 150 to file a return of the income of any other person for a taxation year shall, within 30 days from the day of mailing of the notice of assessment, pay all taxes, penalties and interest payable by or in respect of that person to the extent that he has or had, at any time since the taxation year, in his possession or control

**159.** (1). Subsection 52(1)

property belonging to that person or his estate and shall thereupon be deemed to have made that payment on behalf of the taxpayer.

Certificate  
before dis-  
tribution

(2) Every assignee, liquidator, administrator, executor and other like person, other than a trustee in bankruptcy, before distributing any property under his control, shall obtain a certificate from the Minister certifying that taxes, interest or penalties that have been assessed under this Act and are chargeable against or payable out of the property have been paid or that security for the payment thereof has, in accordance with subsection 220(4), been accepted by the Minister.

(2). Subsection 52(2)

Liability

(3) Distribution of property without a certificate required by subsection (2) renders the person required to obtain the certificate personally liable for the unpaid taxes, interest and penalties.

(3). Subsection 52(3)

Tax on  
income  
from  
property  
transferred  
between  
husband  
and wife or  
to minors

160. (1) Where a person has, on or after the 1st day of May, 1951, transferred property, either directly or indirectly, by means of a trust or by any other means whatever,

(a) to his spouse or to a person who has since become his spouse, or

(b) to a person who was under nineteen years of age,

the following rules are applicable:

(c) the transferee and transferor are jointly and severally liable to pay a part of the transferor's tax under this Part for each taxation year equal to the amount by which the tax for the year is greater than it would have been if it were not for the operation of section 74 or section 75, as the case may be, in respect of income from the property so transferred or from property substituted therefor; and

(d) the transferee and transferor are jointly and severally liable to pay the lesser of

(i) any amount that the transferor was liable to pay under this Act on the day of the transfer, and

160. (1). Subsection 53(1)



## Subsection 160(1)

(ii) a part of any amount that the transferor was so liable to pay equal to the value of the property so transferred;

but nothing in this subsection shall be deemed to limit the liability of the transferor under any other provision of this Act.

Minister  
may assess  
transferee

(2) The Minister may at any time assess a transferee in respect of any amount payable by virtue of this section and the provisions of this Division are applicable *mutatis mutandis* in respect of an assessment made under this section as though it had been made under section 152.

(2). Subsection 53(2)

Rules  
applicable

(3) Where a transferor and transferee have, by virtue of subsection (1), become jointly and severally liable in respect of part or all of a liability of the transferor under this Act, the following rules are applicable:

(3). Subsection 53(3)

(a) a payment by the transferee on account of his liability shall to the extent thereof discharge the joint liability; but

(b) a payment by the transferor on account of his liability only discharges the transferee's liability to the extent that the payment operates to reduce the transferor's liability to an amount less than the amount in respect of which the transferee was, by subsection (1), made jointly and severally liable.

## Interest

General

161. (1) Where the amount paid on account of tax payable by a taxpayer under this Part for a taxation year before the expiration of the time allowed for filing the return of the taxpayer's income is less than the amount of tax payable for the year under this Part, the person liable to pay the tax shall pay interest at a prescribed rate per annum on the difference between those two amounts from the expiration of the time for filing the return of income to the day of payment.

161. (1). Subsection 54(1), modified

Interest on  
instalments

(2) In addition to the interest payable under subsection (1), where a taxpayer, being required by this Part to pay a part or instalment of tax, has failed to pay all or any part thereof

(2). Subsection 54(2), modified

*Subsection 161(2)*

as required, he shall, on payment of the amount he failed to pay, pay interest at the rate per annum prescribed for the purposes of subsection (1) from the day on or before which he was required to make the payment to the day of payment or the beginning of the period in respect of which he becomes liable to pay interest thereon under subsection (1), whichever is earlier.

Special  
case

(3) In addition to the interest payable under subsection (1), where a corporation that paid tax under subsection 157(2) had a taxable income for the taxation year of more than \$10,000, it shall, forthwith after assessment, pay an amount equal to 3% of the tax payable under this Part for the taxation year.

(3). Subsection 54(3)

Limitation

(4) For the purposes of subsection (2), where a taxpayer is required to pay a part or instalment of tax for a taxation year as estimated by him on his taxable income for a preceding year or on his estimated taxable income for the taxation year, he shall be deemed to have been liable to pay a part or instalment computed by reference to the taxable income for

(a) the preceding year, or

(b) the taxation year,

whichever is the lesser.

(4). Subsection 54(4)

Participa-  
tion  
certificates

(5) Notwithstanding any other provision in this section, no interest is payable in respect of the amount by which the tax payable by a person is increased by a payment made by the Canadian Wheat Board on a participation certificate previously issued to him until 30 days after the payment is made.

(5). Subsection 54(5)

Income of  
resident  
from a  
foreign  
country in  
blocked  
currency

(6) Where the income of a taxpayer for a taxation year, or part thereof, is from sources in another country and the taxpayer by reason of monetary or exchange restrictions imposed by the law of that country is unable to transfer it to Canada, the Minister may, if he is satisfied that payment as required by this Part of the

(6). Subsection 54(7)

*Subsection 161(6)*

whole of the additional tax under this Part for the year reasonably attributable to income from sources in that country would impose extreme hardship on the taxpayer, postpone the time for payment of the whole or a part of that additional tax for a period to be determined by the Minister but no such postponement may be granted if any of the income for the year from sources in that country has been

- (a) transferred to Canada,
- (b) used by the taxpayer for any purpose whatever, other than payment of income tax to the government of that other country on income from sources therein, or
- (c) disposed of by him;

and no interest is payable under this section in respect of that additional tax, or part thereof, during the period of postponement.

Effect of  
carry back  
of loss

(7) Where a taxpayer is entitled to deduct under section 111 in computing his taxable income for a taxation year an amount in respect of a loss for the taxation year immediately following the taxation year (hereinafter in this subsection referred to as "the loss year"), for the purpose of computing interest under subsection (1) or (2) on tax or a part or instalment of tax for the taxation year for any portion of the period in respect of which the interest is payable on or before the last day of the loss year, the tax payable for the taxation year shall be deemed to be the amount that it would have been if the taxpayer were not entitled to deduct any amount under section 111 in respect of that loss.

(7). Subsection 54(8)

*Penalties*

Penalties

162. (1) Every person who has failed to make a return as and when required by subsection 150(1) is liable to a penalty of

162. (1). Subsection 55(1)

*Subsection 162(1)*

(a) an amount equal to 5% of the tax that was unpaid when the return was required to be filed, if the tax payable under this Part that was unpaid at that time was less than \$10,000, and

(b) \$500, if at the time the return was required to be filed tax payable under this Part equal to \$10,000 or more was unpaid.

Idem

(2) Every person who has failed to file a return as required by subsection 150(3) is liable to a penalty of \$10 for each day of default but not exceeding \$50.

(2). Subsection 55(2)

Failure to complete information

(3) Every person who has failed to complete the information on a prescribed form as required by or pursuant to section 150 is, unless in the case of an individual the Minister has waived it, liable to a penalty

(3). Subsection 55(3)

(a) of 1% of the tax payable under this Part but, whether he is taxable or not, not less than \$25 or more than \$100, or

(b) in the case of an individual, of such lesser amount as the Minister may have fixed in respect of the specific failure.

Wilful failure to file return

163. (1) Every person who wilfully attempts to evade payment of the tax payable by him under this Part by failing to file a return of income as and when required by subsection 150(1) is liable to a penalty of 50% of the amount of the tax sought to be evaded.

163. (1). Subsection 56(1), modified

Statements or omissions in return

(2) Every person who, knowingly, or under circumstances amounting to gross negligence in the carrying out of any duty or obligation imposed by or under this Act, has made, or has participated in, assented to or acquiesced in the making of, a statement or omission in a return, certificate, statement or answer filed or made as required by or under this Act or a regulation, as a result of which the tax that would have been payable by him for a taxation year if the tax had been assessed on the basis of the information provided in the return, certificate, statement or answer is less than the tax payable by

(2). Subsection 56(2)



*Subsection 163(2)*

him for the year, is liable to a penalty of 25% of the amount by which the tax that would so have been payable is less than the tax payable by him for the year.

Burden of  
proof in  
respect of  
penalties

(3) Where, in any appeal under this Act, any penalty assessed by the Minister under this section is in issue, the burden of establishing the facts justifying the assessment of the penalty is on the Minister.

(3). New

*Refunds*

Refunds

164. (1) If the return of a taxpayer's income for a taxation year has been made within 4 years from the end of the year, the Minister

164. (1). Subsection 57(1)

(a) may, upon mailing the notice of assessment for the year, refund, without application therefor, any overpayment made on account of the tax; and

(b) shall make such a refund after mailing the notice of assessment if application therefor has been made in writing by the taxpayer within 4 years from the end of the year.

Application  
to other  
taxes

(2) Instead of making a refund that might otherwise be made under this section, the Minister may, where the taxpayer is liable or about to become liable to make any payment under this Act, apply the amount of the overpayment to that other liability and notify the taxpayer of that action.

(2). Subsection 57(2)

Interest  
on over-  
payments

(3) Where an amount in respect of an overpayment is refunded, or applied under this section on other liability, interest at a prescribed rate per annum shall be paid or applied thereon for the period commencing with the latest of

(3). Subsection 57(3), modified

(a) the day when the overpayment arose,

(b) the day on or before which the return of the income in respect of which the tax was paid was required to be filed, and

*Subsection 164(3)*

(c) the day when the return of income was actually filed,

and ending with the day of refunding or application aforesaid, unless the amount of the interest so calculated is less than \$1, in which event no interest shall be paid or applied under this subsection.

Idem

(4) Where, by a decision of the Minister under section 165 or by a decision of the Tax Review Board, the Federal Court of Canada or the Supreme Court of Canada, it is finally determined that the tax payable by a taxpayer for a taxation year under this Part is less than the amount assessed by the assessment under section 152 to which the objection was made or from which the appeal was taken and the decision makes it appear that there has been an overpayment for the taxation year, the interest payable under subsection (3) on that overpayment shall be computed at the rate per annum prescribed for the purposes of subsection 161(2) instead of that prescribed for the purposes of subsection (3).

(4). Subsection 57(3a), modified

Effect of  
carryback  
of loss

(5) Where a taxpayer is entitled to deduct under section 111 in computing his taxable income for a taxation year an amount in respect of a loss for the taxation year immediately following the taxation year (in this subsection referred to as "the loss year"), and the amount of the tax payable for the taxation year is relevant in determining an overpayment for the purpose of computing interest under subsection (3) for any portion of a period ending on or before the last day of the loss year, the tax payable for the taxation year shall be deemed to be the amount that it would have been if the taxpayer were not entitled to deduct any amount under section 111 in respect of that loss.

(5). Subsection 57(5)

## Section 164

(6). New

Where  
disposition  
of property  
by legal  
represent-  
ative of  
deceased  
taxpayer

(6) Where in the course of administering the estate of a deceased taxpayer, the taxpayer's legal representative has, within the 12-month period immediately following the death of the taxpayer,

(a) disposed of capital property of the estate so that the aggregate of amounts each of which is a capital loss from the disposition of any property of the estate exceeds the aggregate of all amounts each of which is a capital gain from the disposition of any property of the estate, or

(b) disposed of all of the depreciable property of a prescribed class of the estate so that the undepreciated capital cost to the estate of property of that class at the end of the first taxation year of the estate is, by virtue of any regulation made under paragraph 20(1)(a), deductible in computing the income of the estate for that year,

the legal representative shall be deemed to have paid, on account of tax under this Part payable by the estate for its first taxation year, an amount equal to the amount, if any, by which

(c) the tax under this Part payable by the deceased taxpayer for the taxation year in which he died

exceeds

(d) the amount that would have been the tax under this Part payable by the deceased taxpayer for the taxation year in which he died if

(i) such part of the excess described in paragraph (a) as the legal representative so elects, in prescribed manner and within prescribed time, had been a capital loss of the deceased taxpayer for that year, and

(ii) such part of the amount of any deduction described in paragraph (b) (not exceeding the amount that, but for this subsection, would be the non-capital loss of the estate for the year) as the legal representative so elects, in prescribed manner and within prescribed time, had been deducted in computing the income of the deceased taxpayer for that year,

*Subsection 164(6)*

and for the purpose of section 111, in computing the net capital loss and non-capital loss of the estate for its first taxation year,

(e) the part referred to in subparagraph (d)(i) shall be deemed not to have been a loss of the estate, and

(f) the part referred to in subparagraph (d)(ii) is not deductible in computing any loss of the estate for the year.

"Overpayment"  
defined

(7) In this section, "overpayment" means the aggregate of all amounts paid on account of tax minus all amounts payable under this Act or an amount so paid where no amount is so payable.

(7). Subsection 57(4), modified

*Objections to Assessments*

Objections  
to assess-  
ment

165. (1) A taxpayer who objects to an assessment under this Part may, within 90 days from the day of mailing of the notice of assessment, serve on the Minister a notice of objection in duplicate in prescribed form setting out the reasons for the objection and all relevant facts.

165. (1). Subsection 58(1)

Service

(2) A notice of objection under this section shall be served by being sent by registered mail addressed to the Deputy Minister of National Revenue for Taxation at Ottawa.

(2). Subsection 58(2)

Duties of  
Minister

(3) Upon receipt of a notice of objection under this section, the Minister shall,

(3). Subsection 58(3), modified

(a) with all due dispatch reconsider the assessment and vacate, confirm or vary the assessment or reassess, or

(b) where the taxpayer indicates in the notice of objection that he wishes to appeal immediately either to the Tax Review Board or to the Federal Court and that he waives reconsideration of the assessment and the Minister consents, file a copy of the notice of objection with the Registrar of the Tax Review Board or in the Registry of the Federal Court, as the case may be,



*Subsection 165(3)*

and he shall thereupon notify the taxpayer of his action by registered mail.

Effect of  
filing of  
notice of  
objection

(4) Where the Minister files a copy of a notice of objection pursuant to paragraph (3)(b), the Minister shall be deemed, for the purpose of section 169, to have confirmed the assessment to which the notice relates and the taxpayer who served the notice shall be deemed to have thereupon instituted an appeal in accordance with that section or subsection 172(2), as the case may be.

(4). New

Idem

(5) A reassessment made by the Minister pursuant to subsection (3) is not invalid by reason only of not having been made within 4 years from the day of mailing of a notice of an original assessment or of a notification described in subsection 152(4).

(5). Subsection 58(4)

Idem

(6) The Minister may accept a notice of objection under this section notwithstanding that it was not served in duplicate or in the manner required by subsection (2).

(6). Subsection 58(5)

No notice  
of objec-  
tion  
required  
in respect  
of reassess-  
ment or  
additional  
assessment

(7) Where a taxpayer has served a notice of objection to an assessment in accordance with this section and thereafter the Minister reassesses the taxpayer's tax for the taxation year in respect of which the notice of objection was served or makes an additional assessment in respect thereof, and sends to the taxpayer a notice of the reassessment or of the additional assessment, as the case may be, the taxpayer may, without serving a notice of objection to the reassessment or additional assessment,

(7). New

(a) appeal therefrom to the Tax Review Board or the Federal Court in accordance with section 169 or subsection 172(2); or

*Subsection 165(7)*

(b) if an appeal to the Tax Review Board or the Federal Court has been instituted with respect to the assessment, amend such appeal by joining thereto an appeal in respect of the reassessment or the additional assessment in such manner and on such terms, if any, as the Board or the Court directs.

*General*

166. An assessment shall not be vacated or varied on appeal by reason only of any irregularity, informality, omission or error on the part of any person in the observation of any directory provision of this Act.

166. Section 61

167. (1) Where because of the death, incapacitating sickness or bankruptcy of a taxpayer no objection to an assessment under section 165 or appeal to the Tax Review Board under section 169 has been made or instituted within the time limited by section 165 or 169, as the case may be, for so doing, an application may be made to the Tax Review Board for an order extending the time within which a notice of objection may be served or an appeal instituted and the Board may make an order extending the time for objecting or appealing and may impose such terms as it deems just.

167. (1). Subsection 61A(1)

(2) The application referred to in subsection (1) shall set forth the reasons why it was not possible to serve the notice of objection or institute the appeal to the Board within the time otherwise limited by this Act for so doing.

(2). Subsection 61A(2)

(3) An application under subsection (1) shall be made by filing with the Registrar of the Tax Review Board or by sending by registered mail addressed to him at Ottawa 3 copies of the application accompanied by 3 copies of a notice of objection or notice of appeal, as the case may be.

(3). Subsection 61A(3), modified

Irregularities

Application to Review Board for time extension

Idem

How application made

## Section 167

Application  
for time  
extension  
to Federal  
Court

(4) Where, because of the death, incapacitating sickness or bankruptcy of the taxpayer no appeal to the Federal Court of Canada under section 172 has been instituted within the time limited by that section, an application may be made to the Federal Court of Canada by notice filed in the Court and served on the Deputy Attorney General of Canada at least 14 days before the application is returnable for an order extending the time within which such appeal may be instituted and the Court may make an order extending the time for appealing and may impose such terms as it deems just.

(4). Subsection 61A(4)

When  
order to be  
made

(5) No order shall be made under subsection (1) or (4)

(5). Subsection 61A(5)

(a) unless the application to extend the time for objecting or appealing is made within one year after the expiration of the time otherwise limited by this Act for objecting to or appealing from the assessment in respect of which the application is made;

(b) if the Board or Court has previously made an order extending the time for objecting to or appealing from the assessment; and

(c) unless the Board or Court is satisfied that,

(i) but for the circumstances mentioned in subsection (1) or (4), as the case may be, an objection or appeal would have been made or taken within the time otherwise limited by this Act for so doing,

(ii) the application was brought as soon as circumstances permitted it to be brought, and

(iii) there are reasonable grounds for objecting to or appealing from the assessment.

*Revocation of Registration of Certain  
Organizations and Associations*

Notice of  
intention to  
revoke  
registration

168. (1) Where a registered Canadian charitable organization or a registered Canadian amateur athletic association

168. (1). New

(a) applies to the Minister in writing for revocation of its registration,

(b) ceases to comply with the requirements of this Act for its registration as such,

(c) fails to file an information return as and when required under this Act or a regulation,

(d) issues a receipt for a gift or donation otherwise than in accordance with this Act and the regulations or that contains false information,

(e) fails to comply with or contravenes section 230 or 231, or

(f) in the case of a registered Canadian amateur athletic association, accepts a gift or donation the granting of which was expressly or impliedly conditional upon the association making a gift or donation to another person, club, society or association,

the Minister may, by registered mail, give notice to the registered Canadian charitable organization or registered Canadian amateur athletic association that he proposes to revoke its registration.

Revocation  
of registra-  
tion

(2) Where the Minister gives notice under subsection (1) to a registered Canadian charitable organization or to a registered Canadian amateur athletic association,

(a) if the organization or association has applied to him in writing for the revocation of its registration, the Minister shall, forthwith after the mailing of the notice, publish a copy thereof in the *Canada Gazette*, and

(b) in any other case, the Minister may, after the expiration of 30 days from the day of mailing of the notice, or after the expiration of such extended period from the day of mailing of the notice as the Federal Court of Appeal or a judge thereof, upon application made at any time before the determination of any appeal pursuant to subsection 172(3) from the giving of the notice, may fix or allow, publish a copy of the notice in the *Canada Gazette*,

and upon such publication of a copy of the notice, the registration of the organization or association is revoked.

(2). New



DIVISION J — APPEALS TO  
THE TAX REVIEW BOARD  
AND THE FEDERAL COURT

|   |  |  |
|---|--|--|
| Appeal                                  | <p><b>169.</b> Where a taxpayer has served notice of objection to an assessment under section 165, he may appeal to the Tax Review Board to have the assessment vacated or varied after either</p> <ul style="list-style-type: none"> <li>(a) the Minister has confirmed the assessment or reassessed, or</li> <li>(b) 180 days have elapsed after service of the notice of objection and the Minister has not notified the taxpayer that he has vacated or confirmed the assessment or reassessed;</li> </ul> <p>but no appeal under this section may be instituted after the expiration of 90 days from the day notice has been mailed to the taxpayer under section 165 that the Minister has confirmed the assessment or reassessed.</p> | <p><b>169.</b> Subsection 59(1)</p>                |
| Notice to Deputy Minister               | <p><b>170.</b> (1) Where an appeal is made to the Board, the Board shall forthwith send a notice of the appeal to the office of the Deputy Minister of National Revenue for Taxation.</p>  | <p><b>170.</b> (1). Subsection 89(3), modified</p> |
| Notices, etc., to be forwarded to Board | <p>(2) Forthwith after receiving notice under subsection (1) of an appeal, the Deputy Minister of National Revenue for Taxation shall forward to the Board copies of all returns, notices of assessment, notices of objection and notification, if any, that are relevant to the appeal.</p>   | <p>(2). Subsection 89(4), modified</p>             |
| Disposal of appeal                      | <p><b>171.</b> (1) The Board may dispose of an appeal by</p> <ul style="list-style-type: none"> <li>(a) dismissing it, or</li> <li>(b) allowing it and <ul style="list-style-type: none"> <li>(i) vacating the assessment,</li> <li>(ii) varying the assessment, or</li> <li>(iii) referring the assessment back to the Minister for reconsideration and reassessment.</li> </ul> </li> </ul>  | <p><b>171.</b> (1). Subsection 92(1), modified</p> |

## Section 171

Assessment  
under  
s. 246

(2) Where an appeal relates to an assessment or reassessment made pursuant to a direction given under section 246, the Board has no jurisdiction to vacate or vary the assessment in so far as it is made in accordance with that direction; and, if it appears that the only matter at issue in the appeal is whether one of the purposes of the transaction or transactions was the avoidance or reduction of taxes, the Board shall forthwith dismiss the appeal.

(2). Subsection 92(2)

Costs

(3) No costs may be awarded by the Board on the disposition of an appeal.

(3). New

Copy of  
decision to  
Minister and  
appellant

(4) Upon the disposition of an appeal, the Board shall forthwith forward, by registered mail, a copy of the decision and any written reasons given therefor to the Minister and the appellant.

(4). Subsection 92(3), modified

Appeal

172. (1) The Minister or the taxpayer may, within 120 days from the day on which the Registrar of the Tax Review Board mails the decision on an appeal under section 169 to the Minister and the taxpayer, appeal to the Federal Court of Canada.

172. (1). Subsection 60(1)

Appeal to  
Federal  
Court of  
Canada

(2) Where a taxpayer has served a notice of objection to an assessment under section 165, he may, in place of appealing to the Tax Review Board under section 169, appeal to the Federal Court of Canada at a time when, under section 169, he could have appealed to the Tax Review Board.

(2). Subsection 60(2)

Appeal from  
refusal to  
register,  
revocation  
of registra-  
tion, etc.

(3) Where the Minister

(3). New

(a) refuses to register an applicant for registration as a registered Canadian charitable organization or registered Canadian amateur athletic association, or gives notice under subsection 168(1) to such an organization or association that he proposes to revoke its registration,

(b) refuses to accept for registration for the purposes of this Act any retirement savings plan,

(c) refuses to accept for registration for the purposes of this Act any profit sharing plan or revokes the registration of such a plan, or

(d) refuses to issue a certificate of exemption under subsection 212(13),

the applicant or the organization or association, as the case may be, in a case described in paragraph (a), the applicant in a case described in paragraph (b) or (d), or a trustee under the plan or an employer of employees who are beneficiaries under the plan, in a case described in paragraph (c), may, notwithstanding section 24 of the *Federal Court Act*, appeal from such decision or from the giving of such notice to the Federal Court of Appeal.

Reference to Federal Court of questions of law, etc.

173. (1) Where the Minister and a taxpayer agree in writing that a question of law, fact, or mixed law and fact arising under this Act should be determined by the Federal Court, that question shall be determined by the Court pursuant to subsection 17(3) of the *Federal Court Act*.

173. (1). New

Time during consideration not to count

(2) The time between the day on which proceedings are instituted in the Federal Court to have a question determined pursuant to subsection (1) and the day on which the question is finally determined shall not be counted in the computation of

(2). New

(a) the 4-year period referred to in subsection 152(4),

(b) the time for service of a notice of objection to an assessment under section 165, or

(c) the time within which an appeal may be instituted under section 169 or subsection 172(2),

for the purpose of making an assessment of the tax payable by the taxpayer who agreed in writing to the determination of the question, for the purpose of serving a notice of objection thereto or for the purpose of instituting an appeal therefrom, as the case may be.

Reference to Federal Court or Tax Review Board of common questions

174. (1) Where the Minister is of the opinion that a question of law, fact or mixed law and fact is common to assessments in respect of two or more taxpayers, he may apply to the Tax Review Board or the Federal Court — Trial Division for a determination of the question.

174. (1). New

## Section 174

Idem (2) An application under subsection (1) shall set forth

- (a) the question in respect of which the Minister requests a determination,
- (b) the names of the taxpayers that the Minister seeks to have bound by the determination of the question, and
- (c) the facts and reasons on which the Minister relies and on which he based or intends to base assessments of tax payable by each of the taxpayers named in the application,

and a copy of the application shall be served by the Minister on each of the taxpayers named in the application and on any other persons who, in the opinion of the Tax Review Board or the Federal Court – Trial Division, as the case may be, are likely to be affected by the determination of the question.

Where Board or Court may determine question (3) Where the Tax Review Board or the Federal Court – Trial Division is satisfied that a determination of the question set forth in an application under this section will affect assessments in respect of two or more taxpayers who have been served with a copy of the application and who are named in an order of the Board or the Court, as the case may be, pursuant to this subsection, it may

- (a) if none of the taxpayers so named has appealed from such an assessment, proceed to determine the question in such manner as it considers appropriate, or
- (b) if one or more of the taxpayers so named has or have appealed, make such order joining a party or parties to that or those appeals as it considers appropriate.

Determination final and conclusive (4) Where a question set forth in an application under this section is determined by the Tax Review Board or the Federal Court – Trial Division, the determination thereof is, subject to any appeal therefrom in accordance with the *Federal Court Act*, final and conclusive for the purposes of any assessments of tax payable by

(2). New

(3). New

(4). New



the taxpayers named by it pursuant to subsection (3).

Time during  
considera-  
tion of  
question  
not counted

(5) The time between the day on which an application under this section is served on a taxpayer pursuant to subsection (2), and

(a) in the case of a taxpayer named in an order of the Tax Review Board or the Federal Court – Trial Division, as the case may be, pursuant to subsection (3), the day on which the question is finally determined pursuant to paragraph (3)(a) or on which an order is made under paragraph (3)(b), or

(b) in the case of any other taxpayer, the day on which he is served with notice that he has not been named in an order of the Board or the Court, as the case may be, pursuant to subsection (3),

shall not be counted in the computation of

(c) the 4-year period referred to in subsection 152(4),

(d) the time for service of a notice of objection to an assessment under section 165, or

(e) the time within which an appeal may be instituted under section 169 or subsection 172(2),

for the purpose of making an assessment of the tax payable by the taxpayer, serving a notice of objection thereto or instituting an appeal therefrom, as the case may be.

(5). New

Institution  
of appeals

175. (1) An appeal to the Federal Court under this Act, other than an appeal to which section 180 applies, shall be instituted,

- (a) in the case of an appeal by a taxpayer,
  - (i) in the manner set forth in section 48 of the *Federal Court Act*, or
  - (ii) by the filing by the Minister in the Registry of the Federal Court of a copy of a notice of objection pursuant to paragraph 165(3)(b); and

175. (1). New

## Subsection 175(1)

(b) in the case of an appeal by the Minister, in the manner provided by the Federal Court Rules for the commencement of an action.

Counter-  
claim or  
cross-  
demand

(2) If the respondent to an appeal from a decision of the Tax Review Board desires to appeal from that decision, he may do so, whether or not the time fixed by section 172 has expired, by a counterclaim or cross-demand instituted in accordance with the Federal Court Rules.

(2). New

Deemed  
action

(3) An appeal instituted under this section shall be deemed to be an action in the Federal Court to which the *Federal Court Act* and the Federal Court Rules applicable to an ordinary action apply, except as varied by special rules made in respect of such appeals, and except that

(3). New

(a) the Rules concerning joinder of parties and causes of action do not apply except to permit the joinder of appeals instituted under this section;

(b) a copy of a notice of objection filed in the Registry of the Federal Court by the Minister pursuant to paragraph 165(3)(b) shall be deemed to be a statement of claim or declaration that was filed in the Registry of the Federal Court by the taxpayer and served by him on the Minister on the day on which it was so filed by the Minister; and

(c) an originating document or copy of a notice of objection filed by the Minister in the Registry of the Federal Court shall be served in the manner provided in subsection (4).

Service of  
originating  
document

(4) Where an appeal is instituted by the Minister under this section or a copy of a notice of objection is filed in the Registry of the Federal Court by him pursuant to paragraph 165(3)(b) and the Minister files the originating document or the copy of the notice of objection, together with two copies or additional copies thereof and a certificate as to the latest known address of the taxpayer, an officer of the Registry of the Court shall, after verifying the accuracy of the copies, forthwith on behalf of the Minister serve the originating document or the copy of the notice of objection on the taxpayer by sending the copies or additional

(4). New

*Subsection 175(4)*

copies thereof by registered mail addressed to him at the address set forth in the certificate.

Certificate

(5) Where copies have been served on a taxpayer under subsection (4), a certificate signed by an officer of the Registry of the Federal Court as to the date of filing and the date of mailing of the copies shall be transmitted to the office of the Deputy Attorney General of Canada and such certificate is evidence of the date of filing and the date of service of the document referred to therein.

(5). New

Transfer of relevant documents to the Federal Court

176. (1) Where an appeal to the Federal Court is from a decision of the Tax Review Board, the Registrar thereof shall, upon being notified of the appeal, cause to be transmitted to the Registry of the Federal Court all papers filed with the Board on the appeal thereto together with a transcript of the record of the proceedings before the Board.

176. (1). Subsection 100(1), modified

Idem

(2) Where an appeal to the Federal Court is from a decision of the Minister, the Minister shall, upon the institution of the appeal, cause to be transmitted to the Registry of the Federal Court copies of all documents relevant to the assessment or, in the case of an appeal to which section 180 applies, to the decision of the Minister appealed from.

(2). Subsection 100(2), modified

Disposal of appeal

177. The Federal Court may dispose of an appeal, other than an appeal to which section 180 applies, by

177. Subsection 100(5), modified

(a) dismissing it; or

(b) allowing it and

(i) vacating the assessment,

(ii) varying the assessment,

(iii) restoring the assessment, or

(iv) referring the assessment back to the Minister for reconsideration and reassessment.

Court may order payment of tax, etc.

178. (1) The Federal Court may, in delivering judgment disposing of an appeal, order payment or repayment of tax, interest, penalties or, subject to subsection (2), costs by the taxpayer or the Minister.

178. (1). Section 101, modified

*Section 178*

Costs payable by Minister in certain cases

(2) Where, on an appeal by the Minister other than by way of cross-appeal, from a decision of the Tax Review Board, the amount of tax that is in controversy does not exceed \$2,500, the Federal Court, in delivering judgment disposing of the appeal, shall order the Minister to pay all reasonable and proper costs of the taxpayer in connection therewith.

(2). New

Proceedings may be held in camera

179. Proceedings under this Division shall be held in camera upon request made to the Federal Court by the taxpayer.

179. Section 102

Appeals to Federal Court of Appeal

180. (1) An appeal to the Federal Court of Appeal pursuant to subsection 172(3) may be instituted by filing a notice of appeal in the Court within 10 days from

180. (1). New

(a) the time the decision of the Minister to refuse the application for registration or for a certificate of exemption or to revoke the registration of the profit sharing plan was served by the Minister by registered mail on the party instituting the appeal, or

(b) from the mailing of notice to the registered Canadian charitable organization or registered Canadian amateur athletic association under subsection 168(1),

as the case may be, or within such further time as the Court of Appeal or a judge thereof may, either before or after the expiry of those 10 days, fix or allow.

No jurisdiction in Tax Review Board or Federal Court—Trial Division

(2) Neither the Tax Review Board nor the Federal Court — Trial Division has jurisdiction to entertain any proceeding in respect of a decision of the Minister from which an appeal may be instituted under this section.

(2). New

Summary disposition of appeal

(3) An appeal to the Federal Court of Appeal instituted under this section shall be heard and determined in a summary way.

(3). New



PART II  
TAX ON REDEMPTION OR ACQUISITION  
BY CORPORATION OF  
CAPITAL STOCK THEREOF

Tax on  
excess of  
purchase  
price paid

**181. (1)** Where a corporation has, at any time in a taxation year and after 1971, purchased any of its shares in the open market in the manner in which shares would normally be purchased by any member of the public in the open market and the purchase is not an acquisition to which section 182 applies, the corporation shall, on or before the day on or before which it is required to file its return of income under Part I for the year, pay a tax under this Part of 25% on the amount, if any, by which the purchase price paid by the corporation for the shares exceeds the lesser of

- (a) the paid-up capital in respect thereof immediately before the purchase, and
- (b) the paid-up capital limit of the corporation immediately before the purchase.

Definitions

(2) In subsection (1) "paid-up capital limit" of a corporation and "paid-up capital" in respect of any share have the meanings assigned by subsection 89(1).

Tax on  
premium  
paid on  
redemption  
or acqui-  
sition

**182. (1)** Where a corporation, other than a non-resident-owned investment corporation, has in a taxation year redeemed or acquired any of its shares, other than a common share, at a premium, the corporation shall, on or before the day on or before which it is required to file its return of income under Part I for the taxation year in which the share was redeemed or acquired,

(a) in the case of any such redemption or acquisition where

(i) the share was issued on or before February 19, 1953, and

(ii) the maximum amount payable by the corporation in respect of the redemption or acquisition of the share was fixed, by or in accordance with the law under which the corporation was incorporated, on or before February 19, 1953, and has not been increased since that date,

pay a tax under this Part of 20% on the amount of the premium on the share; and

**181. (1).** New

**(2).** New

**182. (1).** Subsection 105A(1), modified

*Subsection 182(1)*

(b) in the case of any such redemption or acquisition, other than a redemption or acquisition to which paragraph (a) applies, where

(i) the share was issued on or before June 18, 1971, and

(ii) the maximum amount payable by the corporation in respect of the redemption or acquisition of the share was fixed, by or in accordance with the law under which the corporation was incorporated, on or before June 18, 1971 and has not been increased since that date,

pay a tax under this Part on the amount of the premium on the share equal to

(iii) 20% thereof, if the amount of the premium on the share was not more than 10% of the amount referred to in paragraph (2)(a) or (b), as the case may be, and

(iv) 30% thereof, if the amount of the premium on the share was more than 10% of the amount referred to in paragraph (2)(a) or (b), as the case may be.

When share  
deemed  
redeemed  
at premium

(2) For the purpose of this section, a share has been redeemed or acquired at a premium if the amount payable by the corporation in respect of the redemption or acquisition exceeds

(a) the par value of the share, if it had a par value, or

(b) if the share had no par value, that proportion of the paid-up capital of the corporation, immediately prior to the redemption or acquisition of the share, with respect to the class of shares to which the share belongs that one is of the number of issued shares of the class immediately prior to the redemption or acquisition of the share,

and the premium is the amount of the excess.

(2). Subsection 105A(2)

Information  
return

**183.** (1) Every corporation that has in a taxation year

(a) purchased any of its shares in the open market in the manner described in subsection 181(1), or

(b) redeemed or acquired any of its shares, other than a common share,

**183.** (1). Subsection 105A(4), modified

## Subsection 183(1)

shall, on or before the day on or before which it is required to file its return of income under Part I for the year, file a return of the transaction in prescribed form.

Interest

(2) Where a corporation is liable to pay tax under this Part and has failed to pay all or any part thereof on the day on or before which it was required to pay the tax, it shall, on payment of the amount in default, pay interest at a prescribed rate per annum from the day on or before which it was required to make the payment to the day of payment.

(2). Subsection 105A(5), modified

Provisions applicable to this Part

(3) Section 152, sections 162 to 175 and Division J of Part I are applicable *mutatis mutandis* to this Part.

(3). Subsection 105A(6), modified

## PART III

ADDITIONAL TAX ON EXCESSIVE  
ELECTION

Tax on excess of dividend paid over portion payable out of tax-paid undistributed surplus or 1971 capital surplus

184. (1) Where a corporation has elected in accordance with subsection 83(1) in respect of the full amount of any dividend payable by it on shares of any class of its capital stock and the full amount of the dividend exceeds the aggregate of the portion thereof deemed by that subsection to be payable out of its tax-paid undistributed surplus on hand and the portion thereof so deemed to be payable out of its 1971 capital surplus on hand, the corporation shall, at the time of the election, pay a tax under this Part equal to the amount of the excess.

184. (1). New

Tax on excess of capital dividend or capital gains dividend paid by corporation

(2) Where a corporation has elected in accordance with subsection 83(2) or 131(1) in respect of the full amount of any dividend payable by it on shares of any class of its capital stock and the full amount of the dividend exceeds the portion thereof deemed by that subsection to be a capital dividend or a capital gains dividend, as the case may be, the corporation shall, at the time of the election, pay a tax under this Part equal to the amount of the excess.

(2). New

Assessment of  
tax

185. (1) The Minister shall, with all due dispatch, examine each election made by a corporation in accordance with subsection 83(1) or (2) or subsection 131(1), as the case may be, assess the tax payable under this Part, if any, in respect of the election, and send a notice of assessment to the corporation.

185. (1). New

Payment of tax  
and  
interest

(2) Where an election has been made by a corporation in accordance with subsection 83(1) or (2) or subsection 131(1), as the case may be, the corporation shall, within 30 days from the day of the mailing of the notice of assessment under this Part in respect of the election, pay to the Receiver General of Canada the portion of the assessed tax and penalties then remaining unpaid whether or not an objection to or appeal from the assessment is outstanding and shall, in addition, pay interest on that portion at a prescribed rate per annum from the day of the election until the day of payment whether or not it was paid within the period of 30 days.

(2). New

Provisions  
applicable  
to this  
Part

(3) Subsections 152(3), (4), (5) and (8), sections 163 to 167, and Division J of Part I are applicable *mutatis mutandis* to this Part.

(3). New

#### PART IV

##### TAX ON TAXABLE DIVIDEND RECEIVED BY PRIVATE CORPORATION

Tax payable  
by private  
corporation  
on certain  
taxable  
dividends  
received  
by it

186. (1) Every corporation that was, at any time in a taxation year, a private corporation shall, on or before the last day of the 3rd month after the end of the year, pay a tax under this Part for the year equal to 1/3 of the amount, if any, by which the aggregate of

186. (1). New

(a) all amounts received by it in the year and after 1971 as, on account or in lieu of payment of, or in satisfaction of, taxable dividends from corporations other than corporations controlled by it,

(i) that are deductible under subsection 112(1) from its income for the year, or



*Subsection 186(1)*

(ii) to the extent of the amounts in respect of those dividends that

(A) are deductible under subsection 90(2) in computing its income for the year, or

(B) are deductible under subsection 113(1) from its income for the year, and

(b) all amounts each of which is an amount in respect of a taxable dividend received by it in the year and after 1971 from a private corporation (in this paragraph referred to as the "payer corporation") controlled by it, equal to that proportion of

(i) 3 times the dividend refund of the payer corporation for its taxation year in which it paid the dividend,

that

(ii) the amount in respect of the dividend so received by the corporation

is of

(iii) the aggregate of all taxable dividends paid by the payer corporation in its taxation year in which it paid the dividend,

exceeds the aggregate of

(c) such part of the corporation's non-capital loss for the year as it may claim, and

(d) such part of the corporation's non-capital loss for a taxation year during which it was a private corporation that is any of the 5 taxation years immediately preceding and the taxation year immediately following the taxation year as the corporation may claim, not exceeding, however, the portion of that loss that

(i) is not deductible under section 111 from the corporation's income for the taxation year, and

(ii) would be so deductible if the reference in paragraph 111(1) (a) to "income for the year" were read as a reference to "income for the year plus the amount on which the taxpayer would be required to pay tax for the year under Part IV if subsection 186(1) were read without reference to paragraph (d) thereof".

## Section 186

When  
corporation  
controlled

(2) For the purpose of this Part, one corporation is controlled by another corporation if more than 50% of its issued share capital (having full voting rights under all circumstances) belongs to the other corporation, to persons with whom the other corporation does not deal at arm's length, or to the other corporation and persons with whom the other corporation does not deal at arm's length.

(2). New

Meaning of  
"dividend  
refund"

(3) In this Part, "dividend refund" of a corporation for a taxation year has the meaning assigned by subsection 129(1).

(3). New

Information  
return

187. (1) Every corporation that is liable to pay tax under this Part for a taxation year in respect of a dividend received by it in the year shall, on or before the day on or before which it is required to file its return of income under Part I for the year, file a return for the year under this Part in prescribed form.

187. (1). New

Interest

(2) Where a corporation is liable to pay tax under this Part and has failed to pay all or any part thereof on the day on or before which it was required to pay the tax, it shall, on payment of the amount in default, pay interest at a prescribed rate per annum from the day on or before which it was required to make the payment to the day of payment.

(2). New

Provisions  
applicable  
to Part

(3) Sections 151, 152, 158, 159 and 162 to 167, and Division J of Part I are applicable *mutatis mutandis* to this Part.

(3). New

## PART V

REFUNDABLE TAX IN RESPECT OF  
INELIGIBLE INVESTMENTS

Tax in  
respect of  
ineligible  
invest-  
ments

188. (1) Every corporation that was, at any time in a taxation year, a Canadian-controlled private corporation shall, on or before the last day of the 3rd month after the end of the year, pay a tax under this Part for the year equal to 25% of the lesser of

188. (1). New

## Subsection 188(1)

- (a) the amount, if any, by which
- (i) 2 times the aggregate of amounts each of which is the cost to the corporation of an ineligible investment acquired by it after 1971 and owned by it at the end of the year,

exceeds

- (ii) 4 times the amount, if any, by which the aggregate of amounts of tax under this Part payable by the corporation for previous taxation years exceeds the aggregate of amounts of tax under this Part refundable to the corporation for previous taxation years, and
- (b) the amount, if any, by which
- (i) the corporation's preferred-rate amount at the end of the year,

exceeds

- (ii) the amount determined under subparagraph (a)(ii).

Refund  
of tax

(2) If a corporation's return under this Part for a taxation year has been made within four years from the end of the year, and the corporation was, throughout the year, a Canadian-controlled private corporation, the Minister

(a) may, upon mailing the notice of assessment for the year, refund, without application therefor, the amount of tax under this section refundable to the corporation for the year, and

(b) shall make such a refund after mailing the notice of assessment, if application therefor has been made in writing by the taxpayer within four years from the end of the year.

(2). New

Return

189. (1) Every corporation that is liable to pay tax under this Part for a taxation year shall, on or before the day on or before which it is required to file a return of its income under Part I for the year, file a return for the year under this Part in prescribed form.

189. (1). New

Interest

(2) Where a corporation is liable to pay tax under this Part and has failed to pay all or any part thereof on or before the day on or before which it was required to pay the tax, it shall, on

(2). New

## Subsection 189(2)

payment of the amount in default, pay interest at a prescribed rate per annum from the day on or before which it was required to make the payment to the day of payment.

Provisions applicable to Part (3) Section 151, 152, 158, 159 and 162 to 167, and Division J of Part I are applicable *mutatis mutandis* to this Part. (3). New

Definitions (4) In this Part, (4). New

"Dividend refund" (a) "dividend refund" of a corporation for a taxation year has the meaning assigned by subsection 129(1);

"Ineligible investment" (b) "ineligible investment" of any particular corporation means a property that was not acquired for the purpose of gaining or producing income from an active business of the particular corporation, except

(i) money, including balances standing to the particular corporation's credit in the records of

(A) a bank to which the *Bank Act* or the *Quebec Savings Banks Act* applies, or

(B) a corporation licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada the business of offering to the public its services as trustee,

(ii) any bond, debenture, mortgage, hypothec, note or other similar obligation

(A) of or guaranteed by the Government of Canada,

(B) of the government of a province or an agent thereof,

(C) of a municipality in Canada or a municipal or public body performing a function of government in Canada,

(D) of a corporation, commission or association not less than 90% of the shares or capital of which is owned by Her Majesty in right of a province or by a Canadian municipality, or of a subsidiary wholly-owned corporation that is subsidiary to such a corporation, commission or association, or



(E) of an educational institution or a hospital if repayment of the principal amount thereof and payment of the interest thereon is to be made, or is guaranteed, assured or otherwise specifically provided for or secured by the government of a province,

that matures within one year after the date of its issue,

(iii) any share of the capital stock of another Canadian-controlled private corporation if, immediately after the acquisition of the share, that other Canadian-controlled private corporation was controlled directly or indirectly in any manner whatever by the particular corporation,

(iv) any bond, debenture, mortgage, hypothec, note, certificate or other similar obligation that matures within one year after the date of its issue, if the issuer thereof

(A) was dealing with the particular corporation at arm's length, and

(B) was a corporation not more than 25% of whose issued share capital (having full voting rights in all circumstances) belonged, at the time the particular corporation acquired the obligation, to the particular corporation, to persons with whom the particular corporation was not dealing at arm's length, or to the particular corporation and persons with whom it was not dealing at arm's length, or

(v) any bond, debenture, mortgage, hypothec, note, certificate, debt or other similar obligation, issued, given or owing by another Canadian-controlled private corporation that, at the time the particular corporation acquired the obligation, was controlled directly or indirectly in any manner whatever by the particular corporation;

except that for the purposes of this Part an amount equal to the lesser of

(vi) the aggregate of

(A) the cost to the particular corporation of such of

1. any shares of the capital stock of any other Canadian-controlled private corporation that at the end of any taxation year of the particular corporation was controlled directly or indirectly in any manner whatever by the particular corporation, and

2. any obligations described in subparagraph (v) issued, given or owing by that other Canadian-controlled private corporation,

as were acquired by the particular corporation after 1971 and owned by it at the end of that taxation year, and

(B) any contributions of capital by the particular corporation to that other Canadian-controlled private corporation, made directly or indirectly in any manner whatever (otherwise than by the acquisition of any share or obligation described in clause (A) after 1971 and before the end of that taxation year, and

(vii) the amount, if any, by which

(A) the aggregate of amounts each of which is the cost to that other Canadian-controlled private corporation of an ineligible investment acquired by it after 1971 and owned by it at the end of the taxation year referred to in subparagraph (vi),

exceeds

(B) 2 times the amount, if any, by which the aggregate of amounts of tax under this Part payable by that other Canadian-controlled private corporation for taxation years ending before or coincidentally with the end of the taxation year referred to in subparagraph (vi) exceeds the aggregate of amounts of tax under this Part refundable to that other Canadian-control-

led private corporation for those taxation years,

shall be deemed to be the cost to the particular corporation of an ineligible investment acquired by it after 1971 and owned by it throughout the taxation year referred to in subparagraph (vi);

“Preferred-rate amount”

(c) “preferred-rate amount” of a corporation at any particular time in a taxation year means the aggregate of

- (i) its preferred-rate amount, if any, at the end of the immediately preceding taxation year,
- (ii) 4 times the amount deductible under section 125 from the tax otherwise payable by the corporation under Part I for the year, and
- (iii)  $\frac{4}{3}$  of the aggregate of amounts each of which is an amount in respect of a taxable dividend received by it in the year, after 1971 and before the particular time from another corporation controlled directly or indirectly in any manner whatever by it, equal to the amount so received to the extent that

(A) payment thereof by the other corporation operated to reduce the other corporation’s preferred-rate amount, and

(B) the amount so received was not an amount in respect of which tax under Part VII was payable by the corporation,

less the aggregate of

- (iv)  $\frac{4}{3}$  of the amount, if any, by which the aggregate of taxable dividends paid by the corporation in the year, after 1971 and before the particular time exceeds 3 times its dividend refund for the year, and
- (v) all amounts on which tax under Part VI has become payable by the corporation as a result of any transaction occurring in the year and before the particular time; and

"Tax" under  
this Part  
"refundable"

(d) "tax" under this Part "refundable" to a corporation for a taxation year means 25% of the greater of

(i) the amount, if any, by which

(A) 4 times the amount, if any, by which the aggregate of amounts of tax under this Part payable by the corporation for previous taxation years exceeds the aggregate of amounts of tax under this Part refundable to the corporation for previous taxation years,

exceeds

(B) 2 times the aggregate of amounts each of which is the cost to the corporation of an ineligible investment acquired by it after 1971 and owned by it at the end of the year, and

(ii) the amount, if any, by which

(A) the amount determined under clause (i)(A)

exceeds

(B) the corporation's preferred-rate amount at the end of the year.

## PART VI

### TAX WHEN CORPORATION BECOMES A NON-CANADIAN-CONTROLLED PRIVATE CORPORATION

**190.** Where at any time in a taxation year and after 1971 a corporation that was, at a previous time, a Canadian-controlled private corporation becomes a private corporation other than a Canadian-controlled private corporation, a tax of 25% is payable by the corporation under this Part for the year on the amount, if any, by which

(a) its preferred-rate amount (within the meaning assigned by subsection 189(4)) at that time,

**190.** New

Tax on  
excess of  
preferred-  
rate amount  
when cor-  
poration  
has become  
ineligible  
for small  
business  
deduction



exceeds

(b) 4 times the amount, if any, by which the aggregate of amounts of tax under Part V payable by the corporation for previous taxation years exceeds the aggregate of amounts of tax under that Part refundable to the corporation for previous taxation years.

Payment of  
tax by  
instalments

191. (1) Every corporation by which any tax under this Part is payable for a taxation year shall,

(a) on or before the day on or before which it is required to file its return of income under Part I for the year,

(i) file a return for the year under this Part in prescribed form, and

(ii) pay to the Receiver General of Canada  $\frac{1}{5}$  of the tax under this Part payable by it for the year; and

(b) on or before the day on or before which it is required to file its return of income under Part I for each of the 4 immediately following taxation years, pay to the Receiver General of Canada  $\frac{1}{5}$  of the tax under this Part payable by it for the year.

191. (1). New

Interest

(2) Where a corporation by which any tax under this Part is payable for a taxation year has failed to pay all or any part of any instalment thereof on the day on or before which it was required to pay that instalment, it shall, on payment of the amount in default, pay interest at a prescribed rate per annum from the day on or before which it was required to make the payment to the day of payment.

(2). New

Provisions  
applicable  
to Part

(3) Sections 151, 152 and 162 to 167, and Division J of Part I are applicable *mutatis mutandis* to this Part.

(3). New

## PART VII

TAX ON RECIPIENT OF DIVIDEND PAID  
OUT OF DESIGNATED SURPLUS

Tax where  
dividend  
paid out of  
designated  
surplus

192. (1) Where a corporation has at any time in a taxation year and after 1971 received from a corporation resident in Canada and controlled by it a taxable dividend the amount of which was or would have been, but for subsection 112(5), deductible under subsection 112(1) for the purpose of computing its taxable income for the year, the corporation by which the dividend was received shall, on or before the day on or before which it is required to file its return of income under Part I for the year, pay a tax under this Part of 25% on the portion of the dividend that was paid out of the designated surplus of the payer corporation.

Where  
dividend  
received by  
trader or  
dealer in  
securities

(2) Where a trader or dealer in securities (other than a corporation) has at any time in a taxation year and after 1971 received a taxable dividend from a corporation resident in Canada that would, if the trader or dealer had been a corporation, have been controlled by the trader or dealer, the trader or dealer shall, on or before the day on or before which he is required to file his return of income under Part I for the year, pay a tax under this Part of 25% on the portion of the dividend that was paid out of the designated surplus of the corporation.

Where  
amalgama-  
tion of 2 or  
more cor-  
porations

(3) For the purposes of this Part, where at any time in a taxation year and after 1971 there has been an amalgamation of 2 or more corporations at a time when one or more of the corporations (in this subsection referred to as a "controlled corporation") were controlled by another or others of those corporations (in this subsection referred to as a "controlling corporation"),

(a) each controlling corporation shall be deemed to have received a taxable dividend immediately before the amalgamation from each corporation controlled by it at that time,

(b) each such taxable dividend so received from a controlled corporation shall be deemed to have been paid out of the

192. (1). New

(2). New

(3). New

controlled corporation's designated surplus immediately before the amalgamation, and  
 (c) the amount of any such dividend so received by a controlling corporation from a corporation controlled by it shall be deemed to be the greater of

(i) the amount that would have been payable to it on the winding-up of the controlled corporation immediately before the amalgamation if the subscribed capital had been repaid and what remained to be distributed on the winding-up were an amount equal to the designated surplus of the controlled corporation immediately before the amalgamation, and

(ii) the amount that would have been received by it as dividends on its shares of the capital stock of the controlled corporation immediately before the amalgamation, if at that time

(A) the maximum amount available for dividends were an amount equal to the designated surplus of the controlled corporation immediately before the amalgamation, and

(B) the controlled corporation had distributed that amount by way of dividends to its shareholders, in accordance with their respective rights to receive dividends.

When corporation controlled

(4) For the purpose of this section, one corporation is controlled by another corporation if more than 50% of its issued share capital (having full voting rights under all circumstances) belongs to the other corporation, to persons with whom the other corporation does not deal at arm's length, or to the other corporation and persons with whom the other corporation does not deal at arm's length.

(4). Subsection 28(3), modified

When dividend paid out of designated surplus

(5) For the purposes of this section,

(a) where the amount of a corporation's earnings for a control period that was available for payment of dividends was, at the time a particular taxable dividend was

(5). Subsection 28(6), modified

*Subsection 192(5)*

paid, equal to or greater than the particular dividend plus all other taxable dividends paid by the payer corporation at the same time as the particular dividend, no part of the particular dividend shall be regarded as having been paid out of designated surplus; and

(b) in any other case, the portion of the particular dividend that shall be deemed to have been paid out of designated surplus is that proportion of the lesser of

(i) the aggregate of the particular dividend and all other taxable dividends paid by the payer corporation at the same time as the particular dividend, minus the amount, if any, of the payer corporation's earnings for the control period that was available for payment of dividends at that time, and

(ii) the designated surplus of the payer corporation immediately before that time,

that the particular dividend is of the aggregate of the particular dividend and all other dividends paid by the payer corporation at the same time as the particular dividend.

Where dividends paid at same time on more than one class of shares

(6) For the purpose of subsection (5), where a corporation has, at the same time, paid dividends on its issued shares of different classes and one of the classes of shares had full voting rights under all circumstances and another had not, the dividends on the shares of the class that had full voting rights under all circumstances shall be deemed to have been paid immediately after the dividends on the other shares.

(6). Subsection 28(7), modified

Idem

(7) For the purpose of subsection (5), dividends paid on the same day shall, subject to subsection (6), be deemed to have been paid at the same time.

(7). Subsection 28(8)

Meaning of "control period"

(8) In this section "control period" means the period from the commencement of the payer corporation's taxation year in which the control was acquired to the end of the taxation year in which the dividend was paid.

(8). Subsection 28(4)



(9). Subsection 28(5), modified

Determina-  
tion of  
amount of  
earnings  
available  
for payment  
of dividend

(9) For the purposes of this section, the amount of a corporation's earnings for a control period that was available for payment of dividends at a particular time is the amount by which the aggregate of

(a) the amount of its earnings for the control period that was available for payment of dividends at the end of its 1971 taxation year (within the meaning assigned by subsection 28(5) of this Act as it read in its application to the 1971 taxation year),

(b) its incomes for taxation years ending after 1971 that are in the control period,

(c) 2 times the amount, if any, of the corporation's refundable tax on hand (within the meaning assigned by subsection 129(3)) at the commencement of the control period, and

(d) the aggregate of its dividend refunds (within the meaning assigned by subsection 129(1)), if any, for taxation years ending after 1971 that are in the control period,

exceeds the aggregate of

(e) its income or profits taxes paid or payable, for taxation years ending after 1971 that are in the control period,

(i) under this Act, or

(ii) to a government of

(A) a province,

(B) a country other than Canada, or

(C) a state, province or other political subdivision of a country other than Canada,

except to the extent that those taxes were deductible in computing the income of the corporation under Part I for any of those years,

(f) the corporation's net capital losses, non-capital losses and restricted farm losses for taxation years ending after 1971 that are in the control period, other than the first taxation year in the control period,

(g) all taxable dividends paid by the corporation in the control period after 1971 and before the particular time, to the extent that they were not paid out of designated surplus,

(h) the amount that would, if this Act as it read in its application to the 1971 taxation year were applicable to the period consisting of that part of the corporation's 1972 taxation year that is before 1972, be the aggregate of

(i) dividends paid by the corporation, and

(ii) dividends deemed to have been received by its shareholders

in the control period after its 1971 taxation year and before 1972, to the extent that they were not paid out of designated surplus, and

(i) where the control period commenced after 1971, all taxable dividends received by the corporation in the control period and before the particular time from corporations resident in Canada and controlled by it to the extent that those dividends

(i) were not paid out of designated surplus, and

(ii) would have been paid out of designated surplus on the assumption made by subsection (10) with respect to the corporation.

Assumption  
respecting  
payments  
out of  
designated  
surplus

(10) The assumption made by this subsection with respect to a corporation resident in Canada (in this subsection referred to as the "controlled corporation") that was controlled by another corporation (in this subsection referred to as the "controlling corporation") in a control period is that

(a) the designated surplus, and

(b) the amount of the earnings for the control period that was available for payment of dividends

(10). New

*Subsection 192(10)*

of each corporation, other than the controlled corporation, resident in Canada (hereinafter referred to as a "chain corporation"), control of which was acquired by the controlling corporation by virtue of its acquisition of control of the controlled corporation, were computed as if

(c) each corporation that controlled the chain corporation, at the time the controlling corporation acquired control of the controlled corporation, had acquired control of the chain corporation at that time, and

(d) taxable dividends received by the chain corporation after that time from another corporation that it controlled were

(i) included in computing the chain corporation's designated surplus, and

(ii) not included in computing the amount of the chain corporation's earnings for a control period that was available for payment of dividends

to the extent that such dividends

(iii) were not paid out of designated surplus, and

(iv) would, on the assumption made by this subsection, have been paid out of designated surplus.

Application  
of ss. (1) to  
dividends  
received by  
certain cor-  
porations

(11) Where 2 corporations have, from May 10, 1950, or earlier, to the time of the acquisition hereinafter referred to of control of one of the corporations (hereinafter in this subsection referred to as the "payer corporation") by the other corporation (hereinafter in this subsection referred to as the "receiving corporation"), been subsidiary controlled corporations and

(a) been subsidiary to the same corporation, or

(b) been subsidiary to separate non-resident corporations and become subsidiary to the same non-resident corporation as a result of one of the non-resident corporations acquiring control of the payer corporation or the receiving corporation from the other non-resident corporation,

(11). Subsection 28(9a), modified

*Subsection 192(11)*

and the receiving corporation has acquired control of the payer corporation by the purchase from the corporation to which they were or have become subsidiary of shares of the capital stock of the payer corporation for a consideration not exceeding

(c) in the case of shares that had a par value, the par value thereof, and

(d) in the case of shares that had no par value, the proportion of the paid-up capital of the payer corporation with respect to the class of shares to which the shares so acquired belong that the number of shares so acquired is of the number of issued shares of the class,

subsection (1) is not applicable to a dividend paid by the payer corporation to the receiving corporation.

Idem

(12) For the purpose of this section, dividends paid by a payer corporation in the control period before the control was acquired shall be deemed to have been paid out of designated surplus.

(12). Subsection 28(9b)

"Designated surplus" defined

(13) In this section, "designated surplus" at any particular time after 1971 of a corporation resident in Canada means,

(13). New

(a) where control of the corporation was acquired before the end of the corporation's 1972 taxation year, the amount, if any, by which the aggregate of

(i) the amount in respect of the corporation that would be determined at the end of 1971 under subparagraph 28(6)(b)(ii) of this Act as it read in its application to the 1971 taxation year if the provisions of this Act as it so read were applicable to the corporation's 1972 taxation year, and  
(ii) where control of the corporation was acquired after 1971, all taxable dividends received by the corporation in the control period after 1971 and before the particular time from corporations resident in Canada and controlled by it, to the extent that the dividends



(A) were not paid out of designated surplus, and

(B) would have been paid out of designated surplus on the assumption made by subsection (10) with respect to the corporation,

exceeds the aggregate of

(iii) the amount, if any, by which

(A) the aggregate of all amounts each of which is an amount on which the corporation has, before the particular time, elected to pay tax under Part IX,

exceeds

(B) the amount of the corporation's earnings for the control period that was available for the payment of dividends (within the meaning assigned by subsection 28(5) of this Act as it read in its application to the 1971 taxation year) at the end of 1971; and

(iv) all taxable dividends paid by the corporation after 1971 to the extent that they were paid out of designated surplus; and

(b) in any other case, the amount, if any, by which the aggregate of

(i) the corporation's 1971 undistributed income on hand at the particular time,

(ii) the corporation's post-1971 undistributed surplus at the end of its last taxation year before the control was acquired, and

(iii) all taxable dividends received by the corporation in the control period and before the particular time from corporations resident in Canada and controlled by it, to the extent that the dividends

(A) were not paid out of designated surplus, and

(B) would have been paid out of designated surplus on the assumption made by subsection (10) with respect to the corporation,

exceeds the aggregate of

(iv) the amount, if any, by which

(A) the aggregate of amounts that would be determined at the end of the corporation's 1971 taxation year under subparagraphs 82(1)(a)(i) to (vii) of this Act as it read in its application to the 1971 taxation year if

1. paragraph 82(1)(a) thereof were read without reference to subparagraph (iii) thereof, and

2. references in paragraph 82(1)(a) (except clause (vii)(A)) thereof to "1917" were read as references to "1950",

exceeds

(B) the aggregate of the incomes (within the meaning of this Act as it read in its application to the 1971 taxation year) of the corporation for taxation years beginning with the 1950 taxation year and ending with the 1971 taxation year,

(v) all amounts received by the corporation after its 1971 taxation year and before 1972 that would, within the meaning of this Act as it read in its application to the 1971 taxation year, be dividends received or deemed to have been received by it,

(vi) 2 times the amount, if any, of the corporation's refundable tax on hand (within the meaning assigned by subsection 129(3)) at the end of its last taxation year before the control was acquired, and

(vii) all taxable dividends paid by the corporation after 1971 to the extent that they were paid out of designated surplus.

(14) Notwithstanding anything contained in subsection (13), the designated surplus of a life insurance corporation at any time means the amount that is at the credit of its shareholders' account at that time.

(14). New

(15) For the purposes of this section, a corporation's "post-1971 undistributed surplus" at the end of any particular taxation year

(15). New

Life  
insurance  
corporation

"Post-1971  
undistrib-  
uted  
surplus"  
defined

*Subsection 192(15)*

means the aggregate of its incomes for taxation years beginning with the 1972 taxation year and ending with the particular year, minus the aggregate of the following amounts:

- (a) each net capital loss, non-capital loss and restricted farm loss of the corporation for any such year;
- (b) each expense incurred or disbursement made by the corporation during any such year that was not allowed as a deduction in computing income for any of those years under Part I, except an expense or disbursement
  - (i) incurred or made in respect of the acquisition of property including eligible capital property,
  - (ii) that has been added in computing the adjusted cost base to the corporation of any property, or
  - (iii) in respect of the repayment of loans or capital;
- (c) each taxable dividend paid by the corporation in any such year after 1971; and
- (d) each amount on which tax under Part II was payable in respect of the redemption or acquisition by the corporation in any such year of any shares of its capital stock.

Application  
of ss.(15)

(16) Where, in the case of a corporation referred to in subsection 66(6) as a "predecessor corporation", subsection (15) is being applied to determine the post-1971 undistributed surplus of the corporation at any particular time after such time after 1971 as all or substantially all of the property of the corporation described in subsection 66(6) has been acquired as described in that subsection, there shall not be included in the amount or amounts deductible under any paragraph of subsection (15) any amount in respect of expenses incurred by the corporation included in the aggregate determined under paragraph 66(6)(a).

(16). New

## Section 192

|   |   |           |
|---|---|-----------|
| Idem  | <p>(17) For the purpose of computing a corporation's post-1971 undistributed surplus under subsection (15), the income of the corporation for a year shall be deemed to be the amount that it would have been if subsection 65(1) had not been applicable.</p>  | (17). New |
| Idem  | <p>(18) For the purpose of computing a corporation's post-1971 undistributed surplus under subsection (15) at the end of a particular taxation year, there shall be added the amount of any loss of the corporation, for a taxation year ending before or in that year, from a farming business to the extent that the amount of such loss was added by virtue of paragraph 53(1)(i) in computing the adjusted cost base to the corporation, immediately before the disposition by it of land used in the farming business, of the land so disposed of by it.</p>   | (18). New |
| Acquisition of assets, etc., of insurance corporation | <p>(19) Where all of the assets and liabilities of an insurance corporation incorporated under or pursuant to the laws of a province (in this subsection referred to as the "old corporation") have, at a time when the corporation had post-1971 undistributed surplus or 1971 undistributed income on hand, been acquired by an insurance corporation incorporated under or pursuant to an Act of the Parliament of Canada (in this subsection referred to as the "new corporation") under an arrangement whereby it is contemplated that the new corporation will carry on the business formerly carried on by the old corporation, and the paid-up capital of the new corporation was not, at the time of the acquisition of such assets and liabilities, less than the paid-up capital of the old corporation at that time, the post-1971 undistributed surplus or 1971 undistributed income on hand, as the case may be, of the new corporation immediately after that time as determined under this Act shall be deemed to be the amount otherwise determined thereunder plus the amount of the post-1971 undistributed surplus or 1971 undistributed income on hand, as the case may be, of the old corporation immediately prior to that time.</p> | (19). New |



## Section 192

Dividend  
received by  
exempt  
person

(20) No tax is payable under this Part by a corporation in respect of a dividend received by it at a time when it was a person exempt from tax under section 149.

(20). New

Informa-  
tion  
returns

193. (1) Every person liable to pay tax under this Part on any dividend received by him in a taxation year shall, on or before the day on or before which he is required to file his return of income under Part I for the year, file a return for the year under this Part in prescribed form.

193. (1). New

Interest

(2) Where a person is liable to pay tax under this Part and has failed to pay all or any part thereof on the day on or before which he was required to pay the tax, he shall, on payment of the amount in default, pay interest at a prescribed rate per annum from the day on or before which he was required to make the payment to the day of payment.

(2). New

Provisions  
applicable  
to Part

(3) Sections 151, 152 and 162 to 167, and Division J of Part I are applicable *mutatis mutandis* to this Part.

(3). New

## PART VIII

TAX ON CORPORATION PAYING  
DIVIDEND OUT OF DESIGNATED SURPLUS

Tax on  
corporation  
where divi-  
dend paid  
out of  
designated  
surplus

194. (1) Where a corporation, other than a non-resident-owned investment corporation, has at any time in a taxation year and after 1971 paid a dividend to a shareholder that controlled the corporation and that was

194. (1). Subsection 105B(1), modified

- (a) a non-resident corporation, or
- (b) a person exempt from tax under section 149,

the whole or any part of which dividend would, if Part VII were applicable, be regarded as having been paid out of designated surplus of the corporation as determined under that Part, the corporation shall, on or before the day on or before which it is required to file a return of

*Subsection 194(1)*

income under Part I for the taxation year in which the dividend was paid, pay a tax under this Part equal to

(c) in any case where paragraph (a) applies, 15%, and

(d) in any other case, 33 1/3%,

of the amount of the dividend or, as the case may be, the part thereof that would, if Part VII were applicable, be regarded as having been so paid.

Deter-  
mination  
of pay-  
ment of  
dividend

(2) For the purpose of determining whether a dividend or any part thereof would, if Part VII were applicable, be regarded as having been paid out of designated surplus of a corporation as determined under that Part, where the corporation was controlled by a person described in paragraph (1)(b) that person shall, at all times relevant to the determination, be deemed to have been a corporation.

(2). Subsection 105B(2), modified

Where  
corporation  
controlled

(3) For the purposes of this section, a corporation is controlled by a person described in paragraph (1)(a) or (b) if more than 50% of its issued share capital (having full voting rights under all circumstances) belongs to that person, to persons with whom that person does not deal at arm's length, or to that person and persons with whom that person does not deal at arm's length.

(3). Subsection 105B(4), modified

Idem

(4) For the purposes of subsection (3), issued share capital of a corporation belonging to or held by a trustee of one or more other persons beneficially for owners or members of an organization, club, society or other unincorporated association that is a person exempt from tax under section 149 shall be deemed to be issued share capital of the corporation belonging to the organization, club, society or other association, as the case may be, as a person so exempt.

(4). Subsection 105B(5), modified

## Section 194

Deemed  
to be  
dividend

(5) Where section 15 or subsection 56(2) would, if Part I were applicable, require an amount to be included in computing a shareholder's income, that amount shall, for the purposes of this Part, be deemed to have been paid to the shareholder as a dividend.

(5). New

Exception  
where  
shares  
acquired  
by gift  
or  
bequest

(6) No tax is payable under this Part where the payer corporation was, at the time a particular dividend was paid by it, controlled by a person exempt from tax under section 149, if all of the issued share capital of the corporation (having full voting rights under all circumstances) that, during the period defined in subsection 192(8) as the "control period", belonged to that person, to persons with whom that person did not deal at arm's length, or to that person and persons with whom that person did not deal at arm's length, were acquired by that person or those persons by way of unconditional gift or unconditional bequest.

(6). Subsection 105B(6), modified

Interest

195. (1) Where a corporation is liable to pay tax under this Part and has failed to pay all or any part thereof on or before the day on or before which it was required to pay the tax, it shall, on payment of the amount in default, pay interest at a prescribed rate per annum from the day on or before which it was required to make the payment to the day of payment.

195. (1). Subsection 105B(7), modified

Informa-  
tion  
return

(2) Every corporation that is liable to pay tax under this Part shall, on or before the day on or before which it is required to pay the tax, file a return of information in prescribed form relevant to the transaction or transactions giving rise to such tax.

(2). Subsection 105B(8), modified

Provisions  
applicable  
to Part

(3) Sections 151, 152 and 162 to 167, and Division J of Part I are applicable *mutatis mutandis* to this Part.

(3). Subsection 105B(9), modified

## PART IX

TAX ON 1971 UNDISTRIBUTED INCOME  
ON HAND

Election  
by  
corporation  
resident  
in Canada

**196. (1)** A corporation resident in Canada may, at any time after 1971, elect, in prescribed manner and in prescribed form, to be assessed and to pay a tax under this Part of 15% on such amount as the corporation claims in its election, not exceeding the amount, if any, of its 1971 undistributed income on hand immediately before that time.

**196. (1).** Subsection 105(1), modified

Payment  
to con-  
trolling  
corpora-  
tion of  
portion  
of  
dividend  
payable  
out of  
controlled  
corpora-  
tion's  
tax-paid  
undistri-  
buted  
surplus

**(2)** Where, at any particular time after 1971, a corporation controlled by another corporation (within the meaning assigned by section 28 of this Act as it read in its application to the 1971 taxation year) throughout the period commencing at the end of 1971 and ending immediately after the particular time, has paid a dividend on shares of its capital stock all or any part of which was payable out of the controlled corporation's tax-paid undistributed surplus on hand, the Minister shall, upon application in writing made within 2 years from the end of the calendar year in which the dividend was paid, pay to the controlling corporation an amount in respect of the dividend equal to 15/85 of that proportion of the lesser of

**(2).** New

- (a) such part of the dividend so paid as was paid out of the controlled corporation's tax-paid undistributed surplus on hand, and
- (b) the amount, if any, by which 85/100 of the aggregate of

- (i) the amount of the controlled corporation's earnings for a control period that was available for the payment of dividends at the end of its 1971 taxation year (within the meaning assigned by subsection 28(5) of this Act as it read in its application to the 1971 taxation year), and

- (ii) all amounts each of which is an amount required by paragraph (4)(c) to be included in computing the controlled corporation's 1971 undistributed income on hand at the particular time



exceeds

(iii) the aggregate of dividends paid or credited by the controlled corporation after 1971 and before the particular time, to the extent that they were payable out of the controlled corporation's tax-paid undistributed surplus on hand,

that the part of the dividend received by the controlling corporation is of the whole dividend paid at the particular time by the controlled corporation.

Limitation  
on  
payment

(3) Notwithstanding any other provision of this Part, in no case shall the Minister pay to a corporation under subsection (2) an amount in excess of 15/85 of the controlling corporation's tax-paid undistributed surplus on hand immediately before the time the Minister is required to make the payment.

(3). New

"1971 un-  
distributed  
income on  
hand"  
defined

(4) In this Part, "1971 undistributed income on hand" of a corporation at any particular time after 1971 means the amount, if any, by which the aggregate of

(4). New

(a) the amount that the corporation's undistributed income on hand (within the meaning of this Act as it read in its application to the 1971 taxation year) would be at the end of its 1971 taxation year if

(i) this Act as it so read were read without reference to subparagraph 82(1)(a)(iii) thereof, and

(ii) references in paragraph 82(1)(a) (except clause (vii)(A)) thereof to "1917" were read as references to "1950",

(b) all amounts received by the corporation after its 1971 taxation year and before 1972 that would, within the meaning of this Act as it read in its application to the 1971 taxation year, be dividends received or deemed to have been received by it, and

(c) all amounts each of which is an amount in respect of a dividend

(i) received by the corporation after 1971 and before the particular time, and

(ii) in respect of which the Minister was, before the particular time, required by subsection (2) to pay an amount to the corporation,

equal to 100/15 of the amount so required to be paid to the corporation in respect of the dividend,

exceeds the aggregate of

(d) the amount that the corporation's tax-paid undistributed income (within the meaning of this Act as it read in its application to the 1971 taxation year) would be (if this Act as it so read were applicable to the period consisting of that part of the corporation's 1972 taxation year that is before 1972) as of the end of 1971,

(e) the amount that would, if this Act as it so read were applicable to the period consisting of that part of the corporation's 1972 taxation year that is before 1972, be the aggregate of

(i) dividends paid by the corporation after its 1971 taxation year and before 1972, and

(ii) dividends deemed to have been received in that period by its shareholders, that would be required to be deducted in computing the corporation's undistributed income on hand at the end of 1971, and

(f) all amounts on which the corporation has, before the particular time, elected to pay tax under subsection (1).

1971 un-  
distributed  
income on  
hand of  
life  
insurance  
corporation

(5) Notwithstanding subsection (4), a life insurance corporation's 1971 undistributed income on hand at any time after 1971 is the amount, if any, by which the aggregate of

(a) the amount at the credit of its shareholders' account at the end of its 1968 taxation year, and

(b) the amount, if any, by which

(i) the aggregate of its incomes for taxation years beginning with the 1969 taxa-

(5). New

tion year and ending with the 1971  
taxation year

exceeds the aggregate of

(ii) each business loss (within the meaning of this Act as it read in its application to the 1971 taxation year) sustained by the corporation in any such year,

(iii) each expense incurred or disbursement made by the corporation during any such year that was not allowed as a deduction in computing income for any of those years under Part I of this Act as it read in its application to the 1971 taxation year, except an expense incurred or disbursement made in respect of the acquisition of property or the repayment of loans or capital,

(iv) each dividend paid by the corporation in any such year on any share of its capital stock, and

(v) each amount on which tax under Part VIII of this Act, as it read in its application to the 1971 taxation year, was payable in respect of the redemption or acquisition by the corporation in any such year of any shares of its capital stock,

exceeds the aggregate of

(c) the amount determined under subsection

(4)(d) in respect of the corporation, and

(d) all amounts on which the corporation has, before the particular time, elected to pay tax under this Part.

Payment of  
tax with  
election

197. (1) An election under this Part is null and void unless, when the election was made, there was paid to the Receiver General of Canada the amount of the tax that the corporation elected to pay.

Assessment  
of tax

(2) The Minister shall, with all due dispatch, examine each election made under this Part, assess the tax payable and send a notice of assessment to the corporation.

197. (1). Subsection 105(3), modified

(2). Subsection 105(6), modified

## Section 197

Provisions  
applicable  
to Part

(3) Subsections 152(4) and (5), sections 165 to 167, and Division J of Part I are applicable *mutatis mutandis* to this Part.

(3). Subsection 105(9), modified

## PART X

TAXES ON DEFERRED PROFIT SHARING  
PLANS AND REVOKED PLANS

Tax on non-  
qualified  
investments  
and use of  
assets as  
security

198. (1) Every trust governed by a deferred profit sharing plan or revoked plan that

- (a) acquires a non-qualified investment, or
- (b) uses or permits to be used any property of the trust as security for a loan,

shall pay a tax equal to the cost to the trust of the non-qualified investment or the fair market value, at the time the property is used as security, of the property so used, as the case may be.

Payment of  
tax

(2) A trustee of a trust liable to pay tax under subsection (1) shall remit the amount of the tax to the Receiver General of Canada within 10 days of the day on which the non-qualified investment is acquired or the property is used as security for a loan, as the case may be.

Trustee  
liable for  
tax

(3) Where a trustee of a trust liable to pay tax under subsection (1) does not remit to the Receiver General of Canada the amount of the tax within the time specified in subsection (2), the trustee is personally liable to pay on behalf of the trust the full amount of the tax and is entitled to recover from the trust any amount paid by him as tax under this section.

198. (1). Subsection 105K(1)

(2). Subsection 105K(2)

(3). Subsection 105K(3)

Refund of  
tax on dis-  
position of  
non-qualified  
investment

(4) Where a trust disposes of a non-qualified investment the acquisition of which resulted in the imposition of tax under this section, the trust is, upon application in accordance with section 202, entitled to a refund of an amount equal to the lesser of

- (a) the amount of the tax imposed under this section as a result of the acquisition, and
- (b) the proceeds of disposition of the non-qualified investment.

(4). Subsection 105K(4)



## Section 198

## (5). Subsection 105K(5)

Refund of tax on recovery of property given as security (5) Where a loan, for which a trust has used or permitted to be used trust property as security, ceases to be extant, the trust is, upon application in accordance with section 202, entitled to a refund of an amount equal to the amount remaining, if any, when

(a) the net loss (exclusive of payments by the trust as or on account of interest) sustained by the trust in consequence of its using or permitting to be used the property as security for the loan and not as a result of a change in the fair market value of the property

is deducted from

(b) the tax imposed under this section in consequence of the trust's using or permitting to be used the property as security for the loan.

Special rules relating to life insurance policies

(6) For the purposes of this section,

## (6). Subsection 105K(6)

(a) the acquisition of an interest in or the payment of an amount under a life insurance policy shall be deemed not to be the acquisition of a non-qualified investment, and

(b) the disposition of an interest in a life insurance policy shall be deemed not to be the disposition of a non-qualified investment,

except that where a trust governed by a deferred profit sharing plan or revoked plan makes a payment under or to acquire an interest in a life insurance policy, other than a life insurance policy under which

(c) the trust is, or by virtue of the payment about to become, the only person entitled to any rights or benefits under the policy (other than the rights or benefits of the insurer),

(d) the cash surrender value of the policy (exclusive of accumulated dividends) is or will be, at a time before the 71st anniversary of the birth of the insured person, if all premiums under the policy are paid, not less than the maximum total amount (exclusive of accumulated dividends) payable by the insurer under the policy, and

*Subsection 198(6)*

(e) the total of the premiums payable in any year under the policy is not greater than the aggregate of the amounts that, if the annual premiums had been payable in monthly instalments, would have been payable as such instalments in the 12 months commencing with the date the policy was issued, the making of the payment shall be deemed to be the acquisition of a non-qualified investment at a cost equal to the amount of the payment.

Idem

(7) Notwithstanding subsection (6), where the aggregate of all payments made in a year by a trust governed by a deferred profit sharing plan or revoked plan under or to acquire interests in life insurance policies in respect of which the trust is the only person entitled to any rights or benefits (other than the rights or benefits of the insurer) does not exceed an amount equal to 25% of the aggregate of all amounts paid by employers to the trust in the year under the plan for the benefit of beneficiaries thereunder, the making of the payments under or to acquire interests in such policies shall be deemed, for the purposes of this section, not to be the acquisition of non-qualified investments.

(7). Subsection 105K(7)

Idem

(8) Where a trust surrenders, cancels, assigns or otherwise disposes of its interest in a life insurance policy,

(8). Subsection 105K(8)

(a) the trust shall be deemed, for the purposes of subsection (4), to have disposed of each non-qualified investment that, by virtue of payments under the policy, it was deemed by subsection (6) to have acquired, and

(b) the proceeds of the disposition shall be deemed to be the amount, if any, by which

(i) the amount received by the trust in consequence of the surrender, cancellation, assignment or other disposition of its interest in the policy

exceeds the aggregate of

(ii) each amount paid by the trust under or to acquire an interest in the policy, the payment of which is deemed by this section not to be the acquisition of a non-qualified investment, and

## Subsection 198(8)

(iii) the cash surrender value on December 21, 1966 of the interest of the trust in the policy on that date.

Tax on initial non-qualified investments not disposed of

**199.** (1) Every trust governed by a deferred profit sharing plan or revoked plan shall pay a tax

(a) for 1967, equal to the amount, if any, by which 20% of the initial base of the trust exceeds the proceeds of disposition of its initial non-qualified investments disposed of after December 21, 1966 and before 1968;  
(b) for 1968, equal to the amount, if any, by which 40% of the initial base of the trust exceeds the aggregate of

(i) the proceeds of disposition of its initial non-qualified investments disposed of after December 21, 1966 and before 1969, and

(ii) the tax payable by the trust determined under paragraph (a);

(c) for 1969, equal to the amount, if any, by which 60% of the initial base of the trust exceeds the aggregate of

(i) the proceeds of disposition of its initial non-qualified investments disposed of after December 21, 1966 and before 1970, and

(ii) the tax payable by the trust determined under paragraphs (a) and (b); and

(d) for 1970, equal to the amount, if any, by which 100% of the initial base of the trust exceeds the aggregate of

(i) the proceeds of disposition of its initial non-qualified investments disposed of after December 21, 1966 and before 1971, and

(ii) the tax payable by the trust determined under paragraphs (a), (b) and (c).

**199.** (1). Subsection 105L(1)

Refund

(2) Where at the end of a year,

(a) the aggregate of all taxes paid by a trust under subsection (1)

exceeds

(2). Subsection 105L(2)

## Subsection 199(2)

(b) the aggregate of

(i) all refunds made to the trust under this subsection, and

(ii) the amount, if any, by which the initial base of the trust exceeds the proceeds of disposition of its initial non-qualified investments disposed of after December 21, 1966 and before the end of the year,

the trust is, upon application in accordance with section 202, entitled to a refund equal to the amount by which the aggregate described in paragraph (a) exceeds the aggregate described in paragraph (b).

Distribution  
deemed  
disposition

**200.** For the purposes of this Part a distribution by a trust of a non-qualified investment to a beneficiary of the trust shall be deemed to be a disposition of that non-qualified investment and the proceeds of disposition of that non-qualified investment shall be deemed to be its fair market value at the time of such distribution.

**200.** Section 105M

Tax on  
forfeitures

**201.** (1) Every trust governed by a deferred profit sharing plan or revoked plan shall, for each year after 1965, pay a tax equal to 50% of the amount, if any, by which

**201.** (1). Subsection 105N(1)

(a) the amount forfeited in the trust in the year,  
exceeds the aggregate of

(b) the amount or value of funds or property of the trust appropriated to or for the benefit of the employer in the year and included in his income by virtue of subsection 147(13), and

(c) the aggregate of amounts determined under subsection (2) for the year in respect of each employee who was a beneficiary under the plan.

Idem

(2) The amount determined for the purposes of paragraph (1)(c) for a year in respect of an employee who was a beneficiary under a deferred profit sharing plan or revoked plan is the lesser of

(2). Subsection 105N(2), modified



*Subsection 201(2)*

(a) such portion of the amount forfeited in the trust in the year as was reallocated in the year or within 90 days after the end of the year to that employee, and

(b) the amount, if any, by which

(i) the product obtained when

(A) \$2,000 is multiplied by the number of years before 1972, and

(B) \$3,000 is multiplied by the number of years after 1971

in which the employee was a beneficiary under the plan or under any antecedent deferred profit sharing plan that governed a trust to which payments were made under the antecedent plan for the benefit of beneficiaries thereunder by the employee's employer,

exceeds the aggregate of

(ii) amounts deducted under subsection 147(8) in respect of the employee in computing the income of the employee's employer for the taxation year ending in or coincidentally with the year or for a previous taxation year,

(iii) amounts determined in respect of the employee for the purposes of paragraph (1)(c) for years preceding the year, and

(iv) amounts forfeited in the trust before December 21, 1966 to the extent that they have been reallocated to the employee on or before the last day of the year for which the determination is made.

Amount  
forfeited  
in a trust

(3) In this section, "amount forfeited" in a trust governed by a deferred profit sharing plan or revoked plan in any period means the aggregate of each amount in respect of a person who ceased in the period to be a beneficiary under the plan,

(a) that at any time before the end of the period was allocated or reallocated, contingently or otherwise, by the trust to that person, and

(b) that did not vest irrevocably in that person at or before the time at which he ceased to be a beneficiary under the plan.

(3). Subsection 105N(3)

## Section 201

Deemed  
allocation

(4) For the purposes of subsection (3), an amount paid whether before, on or after December 21, 1966, under a deferred profit sharing plan by an employer to a trustee under the plan in respect of an employee shall be deemed to have been allocated by the trustee to that employee at the time it was so paid.

(4). Subsection 105N(4)

Returns  
and  
payment  
of  
estimated  
tax

202. (1) Within 90 days from the end of each year after 1965, a trustee of every trust governed by a deferred profit sharing plan or revoked plan shall

202. (1). Subsection 105O(1)

(a) file with the Minister a return for the year under this Part in prescribed form and containing prescribed information, without notice or demand therefor,

(b) estimate in the return the amount of tax payable by the trust under this Part for the year,

(c) estimate in the return the amount of any refund to which the trust is entitled under this Part for the year, and

(d) pay to the Receiver General of Canada the unpaid balance of the trust's tax for the year minus any refund to which it is entitled under this Part, or apply in the return for any amount owing to it.

Considera-  
tion of  
application  
for refund

(2) Where a trustee of a trust has made application for an amount owing to it pursuant to subsection (1), the Minister shall

(2). Subsection 105O(2)

(a) consider the application;

(b) determine the amount of any refund; and

(c) send to the trustee a notice of refund and any amount owing to the trust, or a notice that no refund is payable.

Application  
of certain  
provisions  
of Part I

(3) Subsection 150(2), section 152, section 158, subsection 161(1) and sections 162 to 167 and Division J of Part I are applicable *mutatis mutandis* to this Part and for the purposes of

(3). Subsection 105O(3), modified

## Subsection 202(3)

the application of those sections to this Part, a notice of refund under this section shall be deemed to be a notice of assessment.

|                            |  |                                   |
|----------------------------|--|-----------------------------------|
| Idem                       | (4) Subsections 164(3) and (4) are applicable <i>mutatis mutandis</i> to refunds of tax under subsection 198(4) or (5) or under subsection 199(2).   | (4). Subsection 105O(4)           |
| Interest                   | (5) In addition to the interest payable under subsection 161(1), where a taxpayer, being required by section 198 to pay a tax, has failed to pay all or any part thereof as required, he shall, on payment of the amount he failed to pay, pay interest at a prescribed rate per annum from the day on or before which he was required to make the payment to the day of payment or the beginning of the period in respect of which he becomes liable to pay interest thereon under subsection 161(1), whichever is earlier. | (5). Subsection 105O(5), modified |
| Application to other taxes | 203. Instead of making a refund to which a trust is entitled under subsection 198(4) or (5) or under subsection 199(2), the Minister may, where the trust is liable or about to become liable to make another payment under this Act, apply the amount of the refund or any part thereof to that other liability and notify a trustee of the trust of that action.   | 203. Section 105P                 |
| Definitions                | 204. In this Part,   | 204. Section 105Q, modified       |
| "Equity share"             | (a) "equity share" means an equity share within the meaning of section 257;  |                                   |
| "Initial base"             | (b) "initial base" of a trust means the aggregate of the values of all initial non-qualified investments held by the trust on December 21, 1966 when each such investment is valued at the lower of<br>(i) its cost to the trust, and<br>(ii) its fair market value on December 21, 1966;  |                                   |

## Section 204

“Initial  
non-  
qualified  
investment”

(c) “initial non-qualified investment” of a trust means an investment held by the trust on December 21, 1966 that was, on that date, a non-qualified investment but does not include

(i) any interest in a life insurance policy, or

(ii) an equity share that would be a qualified investment if the date of acquisition of the share were December 21, 1966;

“Non-  
qualified  
investment”

(d) “non-qualified investment” means property that is not a qualified investment for a trust governed by a deferred profit sharing plan or revoked plan within the meaning of paragraph (e);

“Qualified  
investment”

(e) “qualified investment” for a trust governed by a deferred profit sharing plan or revoked plan means

(i) money, including balances standing to the trust’s credit in the records of

(A) a bank to which the *Bank Act* or the *Quebec Savings Banks Act* applies, or

(B) a corporation that is licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada the business of offering to the public its services as trustee,

(ii) bonds, debentures, notes, mortgages, hypothecs or similar obligations described in clause 212(1)(b)(ii)(C), whether issued before, on or after April 15, 1966,

(iii) bonds, debentures, notes or similar obligations of a corporation the shares of which are listed on a prescribed stock exchange in Canada, other than those described in paragraph 147(2)(c),

(iv) shares listed on a prescribed stock exchange in Canada,

(v) shares of an investment corporation,

(c). Paragraph 105Q(c), modified

(e). Paragraph 105Q(e), modified



(vi) equity shares of a corporation by which, before the date of acquisition by the trust of the shares, payments have been made in trust to a trustee under the plan for the benefit of beneficiaries thereunder, if the shares are of a class in respect of which

(A) there is no restriction on their transferability, and

(B) in each of 4 taxation years of the corporation in the period of the corporation's 5 consecutive taxation years that ended less than 12 months before the date of acquisition of the shares by the trust, and in the corporation's last taxation year in that period, the corporation

1. paid a dividend on each share of the class of an amount not less than 4% of the cost per share of the shares to the trust, or

2. had earnings attributable to the shares of the class of an amount not less than the amount obtained when 4% of the cost per share to the trust of the shares is multiplied by the total number of shares of the class that were outstanding immediately after such acquisition,

(vii) guaranteed investment certificates issued by a trust company incorporated under the laws of Canada or of a province,

(viii) investment contracts described in clause 146(1)(j)(ii)(B) and issued by a corporation approved by the Governor in Council for the purposes of that clause,

(ix) shares listed on a prescribed stock exchange in a country other than Canada and not listed on a prescribed stock exchange in Canada, to the extent that the cost to the trust of all such shares held by the trust immediately after the latest acquisition by the trust of any such shares is not greater than 10% of the cost to the trust of all property held by it immediately before such acquisition, and

(x) such other investments as may be prescribed by regulations of the Governor in Council made on the recommendation of the Minister of Finance; and

"Revoked plan"

(f) "revoked plan" means a deferred profit sharing plan the registration of which has been revoked by the Minister pursuant to subsection 147(14).

## PART XI

### TAX IN RESPECT OF CERTAIN PROPERTY ACQUIRED BY TRUSTS, ETC., GOVERNED BY DEFERRED INCOME PLANS

Application  
of Part

**205.** This Part applies in respect of a taxpayer that is

**205.** New

(a) a trust or corporation established or incorporated solely in connection with, or for the administration of, a registered pension fund or plan,

(b) a trust governed by a registered retirement savings plan, or

(c) a trust governed by a deferred profit sharing plan.

Tax  
payable

**206. (1)** Where, at the end of any month after 1971,

**206. (1).** New

(a) the cost to a taxpayer to whom this Part applies of all foreign property held by it at that time

exceeds

(b) 10% of the cost to it of all property held by it at that time,

## Subsection 206(1)

the taxpayer shall, in respect of that month, pay a tax under this Part equal to 1% of the lesser of such excess and the cost to it of all foreign property held by it at that time that was acquired by it after June 18, 1971.

"Foreign  
property"  
defined

(2) In this section, "foreign property" means

(a) tangible property situated outside Canada except automotive equipment registered in Canada,

(b) automotive equipment not registered in Canada pursuant to the laws of Canada or a province,

(c) intangible property (other than any property described in paragraph (d), (e) or (f)) situated outside Canada including, without restricting the generality of the foregoing, any patent under the laws of a country other than Canada and any licence in respect thereof,

(d) any share of the capital stock of a corporation other than a Canadian corporation,

(e) any share of the capital stock of a mutual fund corporation that is not an investment corporation, except as prescribed by regulation,

(f) any bond, debenture, mortgage, hypothec, note or similar obligation of, or issued by, a person not resident in Canada,

(g) any interest in or right to any property described in paragraphs (a) to (f), and

(h) any interest in, or right to acquire an interest in, a trust or partnership, except as prescribed by regulation.

(2). New

207. (1) Within 90 days after the end of each year after 1971, a taxpayer to whom this Part applies shall,

(a) file with the Minister a return for the year under this Part in prescribed form and containing prescribed information, without notice or demand therefor,

207. (1). New

## Subsection 207(1)

(b) estimate in the return the amount of tax, if any, payable by him under this Part in respect of each month in the year, and

(c) pay to the Receiver General of Canada the amount of tax, if any, payable by him under this Part in respect of each month in the year.

Liability  
of trustee

(2) Where the trustee of a taxpayer that is liable to pay tax under this Part does not remit to the Receiver General of Canada the amount of the tax within the time specified in subsection (1), the trustee is personally liable to pay on behalf of the taxpayer the full amount of the tax and is entitled to recover from the taxpayer any amount paid by him as tax under this section.

(2). New

Provisions  
applicable  
to Part

(3) Subsections 150(2) and (3), subsection 161(1), sections 152, 158 and 162 to 167, and Division J of Part I are applicable *mutatis mutandis* to this Part.

(3). New

## PART XII

TAX ON INVESTMENT INCOME  
OF LIFE INSURERS

Investment  
income tax

208. (1) Every life insurer shall pay a tax for a taxation year equal to 15% of its taxable Canadian life investment income for the year.

208. (1). Subsection 105R(1)

Deductions  
from tax

(2) There may be deducted from the tax otherwise payable under this Part by an insurer for a taxation year

(2). Subsection 105R(2), modified

(a) the aggregate, for each province, of the lesser of

(i) 50% of any tax, the amount of which is calculated by reference to premiums collected by the insurer, payable by the insurer to that province in respect of premiums collected by it in the year under life insurance policies other than

(A) life insurance policies described in paragraph 209(3)(a),

(B) annuity contracts, or

(C) group term life insurance policies, and



- (ii) 1% of the aggregate of amounts
  - (A) collected in the year by the insurer as or on account of premiums under life insurance policies other than those referred to in clauses (i)(A), (B) and (C), and
  - (B) in respect of which any tax described in subparagraph (i) was payable by the insurer to that province; and

(b) 28 1/3% of that proportion of the aggregate of dividends received by the insurer in the year from taxable Canadian corporations in respect of shares that were non-segregated property of the insurer, that

- (i) the insurer's taxable Canadian life investment income for the year plus the aggregate determined in respect of the insurer for the year under paragraph 209(3)(c)

is of

- (ii) the insurer's net Canadian life investment income for the year.

Gross  
Canadian  
life  
investment  
income

209. (1) A life insurer's gross Canadian life investment income for a taxation year is the amount, if any, by which the aggregate of

- (a) an amount equal to

- (i) where subsection 138(9) applies but the insurer has not elected under that subsection in respect of the year, such part of its gross investment revenue for the year from its non-segregated property as is required by paragraph (b) of that subsection to be included in computing its income for the year from carrying on its life insurance business in Canada, and
- (ii) in any other case, its gross investment revenue for the year from such of its non-segregated property as was property used in the year in, or held in the year in the course of, carrying on its life insurance business in Canada, and

209. (1). Subsection 105S(1)

(b) the amounts required by subsection 138(4) to be included in computing the insurer's income for the year, other than amounts deducted under paragraph 138(3)(a) in computing its income for the immediately preceding taxation year, exceeds the aggregate of the amounts deductible under paragraphs 138(3)(b), (c) and (d) in computing the insurer's income for the year.

Net  
Canadian  
life  
investment  
income

(2) A life insurer's net Canadian life investment income for a taxation year is its gross Canadian life investment income for the year minus the aggregate of

(2). Subsection 105s(2)

(a) its outlays or expenses that were deductible under Part I in computing its income for the year to the extent that such outlays or expenses were laid out or incurred by it for the purposes of managing its non-segregated property, the gross investment revenue from which may reasonably be regarded as having been included in its gross Canadian life investment income for the year;

(b) interest payable by the insurer in respect of the year pursuant to a legal obligation incurred by it in the course of carrying on its life insurance business in Canada;

(c) amounts deductible under paragraph 20(1)(a) in computing the insurer's income for the year in respect of a building at least 80% of which was used regularly by it for the purpose of earning its gross Canadian life investment income for the year; and

(d) 50% of the aggregate of each amount deductible under Part I in computing the insurer's income for the year from carrying on its life insurance business in Canada, except to the extent that such amount

- (i) is included in any of the amounts determined in respect of the insurer for the year under paragraph (a), (b) or (c),
- (ii) is deductible under subsection 138(3) in computing its income for the year from carrying on its life insurance business in Canada,
- (iii) was paid or payable by the insurer under a life insurance policy before the end of the year,
- (iv) was an outlay or expense laid out or incurred by it for the purpose of earning income from its group life insurance business, or
- (v) was payable by the insurer to a province as a tax in respect of premiums collected by it in the year under life insurance policies.

Taxable  
Canadian  
life  
investment  
income

(3) A life insurer's taxable Canadian life investment income for a taxation year is the amount, if any, by which its net Canadian life investment income for the year exceeds the aggregate of

- (a) the interest element for the year for
  - (i) each class of the insurer's existing fixed-premium life insurance policies in Canada, and
  - (ii) each class of the insurer's life insurance policies in Canada that were issued or effected as registered retirement savings plans or pursuant to registered pension funds or plans;
- (b) the insurer's income for the year from carrying on its life insurance business in Canada, computed in accordance with Part I; and
- (c) the aggregate of each amount (other than any capital element thereof as determined under paragraph 60(a)) that a policyholder became entitled to receive in the year from the insurer under a life insurance policy in Canada other than a policy described in paragraph (a), to the extent that such amount is required by paragraph 56(1)(d) or paragraph 148(1)(a)

(3). Subsection 105S(3)

to be included in computing the policyholder's income.

Provisions  
applicable  
to Part

210. Divisions I and J of Part I, except sections 153 to 156, 160 and 168, are applicable *mutatis mutandis* to this Part.

210. Section 105T, modified

Definitions

"Existing  
fixed-  
premium  
life  
insurance  
policy"

211. In this Part,

(a) "existing fixed-premium life insurance policy" means a non-participating life insurance policy

(i) under which the amount of every premium payable and the amount of every adjustment to any premium was fixed and determined on or before October 22, 1968, and

(ii) none of the terms of which relating to premiums payable thereunder had after October 22, 1968 and before the end of the taxation year in respect of which the expression is relevant, been varied in any manner whatever other than to provide for payment of the premiums at time intervals more or less frequent than those fixed and determined immediately before the variation;

"Gross  
investment  
revenue"  
and other  
expressions

(b) "gross investment revenue", "life insurance policy", "life insurance policy in Canada", "maximum tax actuarial reserve", "non-segregated property" and "relevant authority" have the meanings assigned by subsection 138(12);

"Interest  
element"

(c) "interest element" for a taxation year for a particular class of life insurance policy means, except as otherwise expressly prescribed, the product obtained when the rate of interest used by the insurer in computing its maximum tax actuarial reserves for the year for life insurance policies of that class is multiplied by its mean maximum tax actuarial reserve for the year for that class;

211. Section 105U



|  |  |
|--|--|
| "Mean maximum tax actuarial reserve"                     | (d) "mean maximum tax actuarial reserve" for a particular class of life insurance policy for a taxation year means the quotient obtained when the aggregate of the maximum tax actuarial reserve for that class of policy for the year and the maximum tax actuarial reserve for the same class for the immediately preceding taxation year is divided by 2; |
| "Non-participating life insurance policy"                | (e) "non-participating life insurance policy" means a life insurance policy other than a participating life insurance policy as defined in subsection 138(12);   |
| "Property used", etc., in carrying on business in Canada | (f) "property used in the year in, or held in the year in the course of" carrying on a life insurance business in Canada has, where applicable, the meaning assigned by subsection 138(12);  |
| "Segregated fund"  | (g) "segregated fund" has the meaning assigned by subsection 148(1); and   |
| Idem   | (h) in construing the meaning of the expression "group term life insurance policy", the definition of that expression in section 248 does not apply.   |

## PART XIII

TAX ON INCOME FROM CANADA  
OF NON-RESIDENT PERSONS

|                |   |                                       |
|----------------|---|---------------------------------------|
| Tax            | 212. (1) Every non-resident person shall pay an income tax of 25% on every amount that a person resident in Canada pays or credits, or is deemed by Part I to pay or credit, to him as, on account or in lieu of payment of, or in satisfaction of, | 212. (1). Subsection 106(1), modified |
| Management fee | (a) a management or administration fee or charge;   | (a). Paragraph 106(1)(a)              |
| Interest       | (b) interest except<br>(i) interest payable by a non-resident-owned investment corporation,<br>(ii) interest payable on<br>(A) bonds of or guaranteed by the Government of Canada issued on or before December 20, 1960,                            | (b). Paragraph 106(1)(b)              |

(B) bonds of or guaranteed by the Government of Canada issued after December 20, 1960, and before April 16, 1966, the interest on which is payable to the government or central bank of a country other than Canada or to any international organization or agency prescribed by regulation, or

(C) bonds, debentures, notes, mortgages, hypothecs or similar obligations

1. of or guaranteed by the Government of Canada,
2. of the government of a province or an agent thereof,
3. of a municipality in Canada or a municipal or public body performing a function of government in Canada,
4. of a corporation, commission or association not less than 90% of the shares or capital of which is owned by Her Majesty in right of a province or by a Canadian municipality, or of a subsidiary wholly-owned corporation that is subsidiary to such a corporation, commission or association, or
5. of an educational institution or a hospital if repayment of the principal amount thereof and payment of the interest thereon is to be made, or is guaranteed, assured or otherwise specifically provided for or secured by the government of a province,

issued after April 15, 1966, and before 1976,

(iii) interest payable in a currency other than Canadian currency to a person with whom the payer is dealing at arm's length, on

(A) any obligation where the evidence of indebtedness was issued on or before December 20, 1960,

(B) any obligation where the evidence of indebtedness was issued after December 20, 1960, if the obligation was entered into under an agreement in writing made on or before that day, under which the obligee undertook to advance, on or before a specified day, a specified amount at a specified rate of interest or a rate of interest to be determined as provided in the agreement, to the extent that the interest payable on the obligation is payable

1. in respect of a period ending not later than the earliest day on which, under the terms of the obligation determined as of the time it was entered into, the obligee would be entitled to demand payment of the principal amount of the obligation or the amount outstanding as or on account of the principal amount thereof, as the case may be, if the terms of the obligation determined as of that time provided for such payment on or after a specified day, or

2. in respect of a period ending not later than one year after the time the obligation was entered into, in any other case,

(C) any bond, debenture or similar obligation issued after December 20, 1960, for the issue of which arrangements were made on or before that day with a dealer in securities, if the existence of the arrangements for the issue of the bond, debenture or similar obligation can be established by evidence in writing given or made on or before that day,

(D) any debt owing by a bank to which the *Bank Act* applies, as or on account of an amount deposited with that bank that is not repayable in Canadian currency,

(E) any obligation entered into in the course of carrying on a business in a country other than Canada, to the extent that the interest payable on the obligation is deductible in computing the income of the payer under Part I from a business carried on by him in any such country, or

(F) any obligation entered into by the payer after December 20, 1960, upon assuming an obligation referred to in clause (A) in consideration or partial consideration for the purchase by the payer of property of the vendor that constituted security for that obligation, if the payer upon entering into the obligation undertook to pay the same amount of money on or before the same date and at the same rate of interest as the vendor of such property had undertaken in respect of the obligation under which he was the obligor,

(for the purpose of this subparagraph, interest expressed to be computed by reference to Canadian currency shall be deemed to be payable in Canadian currency), and

(iv) interest payable on any bond, debenture or similar obligation issued after June 13, 1963 to a person to whom a certificate of exemption that is in force on the day the amount is paid or credited has been issued under subsection (14);

(c) income of or from an estate or trust, except to the extent that such income is deemed by subsection 104(21) to be a taxable capital gain of a non-resident person from the disposition of capital property;

(d) rent, royalty or a similar payment, including, but not so as to restrict the generality of the foregoing, any payment

(i) for the use of or for the right to use in Canada any property, invention, trade name, patent, trade mark, design or model, plan, secret formula, process or other thing whatever,

(c). Paragraph 106(1)(c), modified

(d). Paragraph 106(1)(d), modified

Estate  
or trust  
income

Rents,  
royalties,  
etc.



*Subsection 212(1)*

(ii) for information concerning industrial, commercial or scientific experience where the total amount payable as consideration for such information is dependent in whole or in part upon

(A) the use to be made thereof or the benefit to be derived therefrom,

(B) production or sales of goods or services, or

(C) profits,

(iii) for services of an industrial, commercial or scientific character performed by a non-resident person where the total amount payable as consideration for such services is dependent in whole or in part upon

(A) the use to be made thereof or the benefit to be derived therefrom,

(B) production or sales of goods or services, or

(C) profits,

but not including a payment made for services performed in connection with the sale of property or the negotiation of a contract,

(iv) made pursuant to an agreement between a person resident in Canada and a non-resident person under which the non-resident person agrees not to use or not to permit any other person to use any thing referred to in subparagraph (i) or any information referred to in subparagraph (ii), or

(v) that was dependent upon the use of or production from property in Canada whether or not it was an instalment on the sale price of the property, but not including an instalment on the sale price of agricultural land,

but not including

(vi) a royalty or similar payment on or in respect of a copyright,

(vii) a payment in respect of the use by a railway company of railway rolling stock as defined in the definition "rolling stock" in section 2 of the *Railway Act*,

## Subsection 212(1)

(viii) a payment made under a *bona fide* cost-sharing arrangement under which the person making the payment shares on a reasonable basis with one or more non-resident persons research and development expenses in exchange for an interest in any or all property or other things of value that may result therefrom, (ix) a rental payment for the use of or the right to use outside Canada any corporeal property, or

(x) any payment made to a person with whom the payer is dealing at arm's length, to the extent that the amount thereof is deductible in computing the income of the payer under Part I from a business carried on by him in a country other than Canada;

|                    |   |                           |
|--------------------|---|---------------------------|
| Timber royalties   | (e) a timber royalty (which, for the purposes of this Part, includes any consideration for a right under or pursuant to which a right to cut or take timber from a timber limit in Canada is obtained or derived, to the extent that such consideration is dependent upon, or computed by reference to, the amount of timber cut or taken); | (e). Paragraph 106(1)(da) |
| Alimony            | (f) alimony or other payment for the support of a spouse or former spouse, children of the marriage, or both the spouse and children of the marriage;   | (f). Paragraph 106(1)(e)  |
| Patronage dividend | (g) a patronage dividend, that is, a payment made pursuant to an allocation in proportion to patronage as defined by section 135 or an amount that would, under subsection 135(7), be included in computing the non-resident person's income if he were resident in Canada;   | (g). Paragraph 106(1)(f)  |
| Pension benefits   | (h) a payment of a superannuation or pension benefit, other than<br>(i) a pension or supplement under the <i>Old Age Security Act</i> or a similar payment under a law of a province,   | (h). New                  |

## Subsection 212(1)

(ii) a benefit under the *Canada Pension Plan* or a provincial pension plan as defined in section 3 of that Act,

(iii) the amount of any social assistance payment made on a means or a needs test basis,

(A) by a registered Canadian charitable organization, or

(B) under a prescribed program provided for by an Act of the Parliament of Canada or a law of a province, or

(iv) in the case of a payment described in section 57, such portion thereof as would, by virtue of that section, not be included in the recipient's income for the taxation year in which it was received, if he were resident in Canada throughout that year,

except such portion, if any, of the payment as may reasonably be regarded as attributable to services rendered by the person, to or in respect of whom the payment is made, in taxation years at no time during which he was resident or employed in Canada;

(i) a payment of a benefit under the *Canada Pension Plan* or a provincial pension plan as defined in section 3 of that Act, except to the extent of the lesser of

(i) the amount of the payment, and

(ii) the amount, if any, by which \$1,290 exceeds the aggregate of all such payments made to the non-resident person

(A) in the year in which the payment was made, and

(B) before the payment was made;

(j) a payment of any allowance or benefit described in any of subparagraphs 56(1)(a) (ii) to (v);

(k) a payment by a trustee under a registered supplementary unemployment benefit plan;

(i). New

(j). New

(k). New

*Canada Pension Plan* benefits

Retiring allowances etc.

Supplementary unemployment benefit plan payments

*Subsection 212(1)*

|   |  |                                   |
|---|--|-----------------------------------|
| Registered retirement savings plan payments | (l) a payment under a registered retirement savings plan that would, if the non-resident person had been resident in Canada throughout the taxation year in which the payment was made, be required by section 146 to be included in computing his income for the year;  | (l). New                          |
| Deferred profit sharing plan payments       | (m) a payment under a deferred profit sharing plan that would, if the non-resident person had been resident in Canada throughout the taxation year in which the payment was made, be required by section 147 to be included in computing his income for the year;  | (m). New                          |
| Income-averaging annuity contract payments  | (n) a payment under an income-averaging annuity contract or any proceeds of the surrender, cancellation, redemption, sale or other disposition of an income-averaging annuity contract; or   | (n). New                          |
| Other annuity payments                      | (o) an annuity payment not described in any other paragraph of this subsection, to the extent of the portion thereof that, if the non-resident person had been resident in Canada throughout the taxation year in which the payment was made,<br>(i) would be required to be included in computing his income for the year, and<br>(ii) would not be deductible in computing that income.  | (o). New                          |
| Tax on dividends                            | (2) Every non-resident person shall pay an income tax of 25% on every amount that a corporation resident in Canada pays or credits, or is deemed by Part I to pay or credit, to him as, on account or in lieu of payment of, or in satisfaction of a taxable dividend or capital dividend.   | (2). Subsection 106(1a), modified |
| Where degree of Canadian ownership          | (3) Notwithstanding subsection (2), where the corporation referred to in that subsection has a degree of Canadian ownership in the taxation year of the corporation during which the dividend is so paid or credited to the non-resident person referred to therein, the tax payable by the non-resident person on the amount referred to therein is the percentage of that amount that is equal to the percentage at which the non-resident person would otherwise be taxed on that amount by virtue of subsec- | (3). Subsection 106(1b), modified |



tion (2) and any other law of Canada other than this Act, minus 5%.

"Management or administration fee or charge"

(4) For the purpose of paragraph (1)(a), "management or administration fee or charge" does not include any amount paid or credited or deemed by Part I to have been paid or credited to a non-resident person as, on account or in lieu of payment of, or in satisfaction of,

(a) a service performed by the non-resident person if, at the time he performed the service

(i) the service was performed in the ordinary course of a business carried on by him that included the performance of such a service for a fee, and

(ii) the non-resident person and the payer were dealing with each other at arm's length, or

(b) a specific expense incurred by the non-resident person for the performance of a service that was for the benefit of the payer, to the extent that the amount so paid or credited was reasonable in the circumstances.

(4). Subsection 106(1c)

Motion picture films

(5) Every non-resident person shall pay an income tax of 25% on every amount that a person resident in Canada pays or credits, or is deemed by Part I to pay or credit, to him as, on account or in lieu of payment of, or in satisfaction of, payment for a right in or to the use of

(a) motion picture films, or

(b) films or video tapes for use in connection with television that have been or are to be used or reproduced in Canada.

(5). Subsection 106(2), modified

Idem for provincial bonds and dividends from wholly-owned subsidiaries

(6) Where an amount described by subsection (1) relates to interest on bonds or other obligations of or guaranteed by Her Majesty in right of a province or interest on bonds or other obligations provision for the payment of which was made by a statute of a provincial legislature, the tax payable under subsection (1) is 5% of that amount.

(6). Subsection 106(3)

## Section 212

Application  
of ss. (6)

(7) Subsection (6) does not apply to interest on any bond or other obligation described therein that was issued after December 20, 1960, except any such bond or other obligation for the issue of which arrangements were made on or before that day with a dealer in securities, if the existence of the arrangements for the issue of the bond or other obligation can be established by evidence in writing given or made on or before that day.

(7). Subsection 106(3a)

Bonds  
issued  
after  
December  
20, 1960  
in  
exchange  
for earlier  
bonds

(8) For the purposes of this Part, where any bond, except a bond to which clause (1)(b)(ii)(C) applies, was issued after December 20, 1960 in exchange for a bond issued on or before that day, it shall, if the terms on which the bond for which it was exchanged was issued conferred upon the holder thereof the right to make the exchange, be deemed to have been issued on or before December 20, 1960.

(8). Subsection 106(3b)

Exemptions

(9) No tax is payable under paragraph (1)(c) on an amount paid or credited to a non-resident person as income of or from a trust if it may reasonably be regarded as having been derived from

(a) dividends (other than taxable dividends or capital dividends) or interest received by the trustee from a non-resident-owned investment corporation, or

(b) amounts received in respect of copyright in a book, music, an article in a periodical, a newspaper syndicated article, picture, comics or any other newspaper or periodical feature used or to be used in Canada,

on which no tax would have been payable under this Part if they had been paid by the non-resident-owned investment corporation or person paying the amounts in respect of copyright to the non-resident person instead of to the trustee.

(9). Subsection 106(4), modified

## Section 212

Trust  
beneficiaries  
residing  
outside of  
Canada

(10) Where all the beneficiaries of a trust established before 1949 reside, during a taxation year, in one country other than Canada and all amounts included in computing the income of the trust for the taxation year were received from persons resident in that country, no tax is payable under paragraph (1)(c) on an amount paid or credited in the taxation year to a beneficiary as income of or from the trust.

(10). Subsection 106(5)

Payment  
to a  
beneficiary  
as income  
of trust

(11) Where an amount has been paid or credited by a trust or estate to a beneficiary or other person beneficially interested therein (otherwise than on a distribution or payment of capital) it shall, regardless of the source from which the trust or estate derived it, be deemed, for the purpose of paragraph (1)(c) and without limiting the generality thereof, to have been paid or credited as income of the trust or estate.

(11). Subsection 106(6)

Deemed  
payments  
to spouse,  
etc.

(12) Where by virtue of subsection 56(4) or section 74 or 75 there is included in computing a taxpayer's income under Part I for a taxation year an amount paid or credited to a non-resident person in the year, no tax is payable under this section on that amount.

(12). Subsection 106(7)

Rent

(13) For the purposes of this section where a non-resident person pays or credits rent for the use in Canada of property, he shall be deemed in respect of that payment to be a person resident in Canada.

(13). Subsection 106(8)

Certificate  
of  
exemption

(14) The Minister may, upon application, issue a certificate of exemption to any non-resident person who establishes to the satisfaction of the Minister that

(14). Subsection 106(9), modified

(a) an income tax is imposed under the laws of the country of which he is a resident;

(b) he is exempt under the laws referred to in paragraph (a) from the payment of income tax to the government of the country of which he is a resident; and

*Subsection 212(14)*

(c) he is

(i) a person who is or would be, if he were resident in Canada, exempt from tax under section 149, or

(ii) a trust or corporation established or incorporated solely in connection with, or for the administration of, an employees' superannuation or pension fund or plan.

Tax non-  
payable  
by  
non-resident  
person

213. (1) Tax is not payable by a non-resident person under subsection 212(2) on a dividend in respect of a share of the capital stock of a foreign business corporation if not less than 90% of the aggregate of the amounts received or receivable by it that are required to be included in computing its income for the taxation year in which the dividend was paid was received or receivable in respect of the operation by it of public utilities or from mining, transporting and processing of ore in a country in which

(a) if the non-resident person is an individual, he resides, or

(b) if the non-resident person is a corporation, individuals who own more than 50% of its share capital (having full voting rights under all circumstances) reside.

213. (1). Subsection 107(1)

Idem

(2) For the purposes of this section, if 90% of the aggregate of the amounts received or receivable by a corporation that are required to be included in computing its income for a taxation year was received or receivable in respect of the operation by it of public utilities or from the mining, transporting and processing of ore, an amount received or receivable in that year from that corporation by another corporation shall, if it is required to be included in computing the receiving corporation's income for the year, be deemed to have been received by the receiving corporation in respect of the operation by it of public utilities or from the mining, transporting and processing of ore by it in the country in which the public utilities were operated or the mining, transporting and processing of ore was carried out by the payer corporation.

(2). Subsection 107(2)



## Section 213

(3). New

(3) For the purposes of this section, a corporation shall be deemed to be a foreign business corporation at a particular time if it would have been a foreign business corporation within the meaning of section 71 of this Act (as that section read in its application to the 1971 taxation year) for the taxation year of the corporation in which the particular time occurred, if that section had been applicable to that taxation year.

**214. (1)** The tax payable under section 212 is payable on the amounts described therein without any deduction from those amounts whatever.

(2) Where subsection 16(1) would, if Part I were applicable, require a part of a payment to be included in computing the recipient's income because it can reasonably be regarded as a payment of interest, that part of the payment shall, for the purpose of this Part, be deemed to have been a payment of interest.

(3) Where section 15 or subsection 56(2) would, if Part I were applicable, require an amount to be included in computing a shareholder's income, that amount shall, for the purpose of this Part, be deemed to have been paid to the shareholder as a dividend.

(4) Where, if section 76 were applicable in computing a non-resident person's income, that section would require an amount to be included in computing his income, that amount shall, for the purpose of this Part, be deemed to have been, at the time he received the security, right, certificate or other evidence of indebtedness, paid to him on account of the debt in respect of which he received it.

(5) Subsection (4) is enacted for greater certainty and shall not be construed as limiting the generality of the other provisions of this Part defining amounts on which tax is payable.

**214. (1).** Subsection 108(1)

(2). Subsection 108(3)

(3). Subsection 108(5), modified

(4). Subsection 108(7)

(5). Subsection 108(8)

No  
deductions

Income and  
capital  
combined

Deemed  
to be  
dividend

Securities

Interpreta-  
tion

## Section 214

Regulations  
respecting  
residents

(6) The Governor in Council may make general or special regulations, for the purposes of this Part, prescribing

(a) who is or has been at any time resident in Canada,

(b) where a person was resident in Canada as well as in some other place, what amounts are taxable under this Part, and

(c) where a non-resident person carried on business in Canada, what amounts are taxable under this Part or what portion of the tax under this Part is payable by that person.

(6). Subsection 108(9)

Deduction  
and  
payment  
of tax

215. (1) When a person pays or credits or is deemed to have paid or credited an amount on which an income tax is payable under this Part, he shall, notwithstanding any agreement or any law to the contrary, deduct or withhold therefrom the amount of the tax and forthwith remit that amount to the Receiver General of Canada on behalf of the non-resident person on account of the tax and shall submit therewith a statement in prescribed form.

215. (1). Subsection 109(1)

Idem

(2) Where an amount on which an income tax is payable under this Part is paid or credited by an agent or other person on behalf of the debtor either by way of redemption of bearer coupons or warrants or otherwise, the agent or other person by whom the amount was paid or credited shall, notwithstanding any agreement or law to the contrary, deduct or withhold and remit the amount of the tax and shall submit therewith a statement in prescribed form as required by subsection (1) and shall thereupon, for purposes of accounting to or obtaining reimbursement from the debtor, be deemed to have paid or credited the full amount to the person otherwise entitled to payment.

(2). Subsection 109(2)

Idem

(3) Where an amount on which an income tax is payable under this Part was paid or credited to an agent or other person for or on behalf of the person entitled to payment without the tax having been withheld

(3). Subsection 109(3)

*Subsection 215(3)*

or deducted under subsection (1), the agent or other person shall, notwithstanding any agreement or law to the contrary, deduct or withhold therefrom the amount of the tax and forthwith remit that amount to the Receiver General of Canada on behalf of the person entitled to payment in payment of the tax and shall submit therewith a statement in prescribed form, and he shall thereupon, for purposes of accounting to the person entitled to payment, be deemed to have paid or credited that amount to him.

Exception

(4) The Governor in Council may make regulations with reference to any non-resident person or class of non-resident person who carries on business in Canada, providing that subsections (1), (2) and (3) are not applicable to amounts paid to or credited to him and requiring him to file an annual return on a prescribed form and to pay the tax imposed by this Part within a time limited in the regulations.

(4). Subsection 109(4)

Regulations  
reducing  
amount to  
be deducted  
or withheld

(5) The Governor in Council may make regulations with reference to any non-resident person or class of non-resident person to whom any amount is paid or credited as, on account or in lieu of payment of, or in satisfaction of any amount described in any of paragraphs 212(1)(h) to (m), reducing the amount otherwise required by subsections (1) to (3) to be deducted or withheld from the amount so paid or credited.

(5). New

Liability  
for tax

(6) Where a person has failed to deduct or withhold any amount as required by this section from an amount paid or credited or deemed to have been paid or credited to a non-resident person, that person is liable to pay as tax under this Part on behalf of the non-resident person the whole of the amount that should have been deducted or withheld, and is entitled to deduct or withhold from any

(6). Subsection 109(5)

*Subsection 215(6)*

amount paid or credited by him to the non-resident person or otherwise recover from the non-resident person any amount paid by him as tax under this Part on behalf thereof.

Alternative  
rents and  
timber  
royalties

**216. (1)** Where an amount has been paid during a taxation year to a non-resident person as, on account or in lieu of payment of, or in satisfaction of, rent on real property in Canada or a timber royalty, he may, within 2 years from the end of the taxation year, file a return of income under Part I in the form prescribed for a person resident in Canada for that taxation year and he shall, without affecting his liability for tax otherwise payable under Part I, thereupon be liable, in lieu of paying tax under this Part on that amount, to pay tax under Part I for that taxation year as though

(a) he were a person resident in Canada and were not exempt from tax under section 149,

(b) his interest in real property in Canada or timber limits in Canada were his only source of income, and

(c) he were not entitled to any deduction from income for the purpose of computing taxable income.

**216. (1).** Subsection 110(1)

Idem

**(2)** Where a non-resident person has filed a return of income under Part I as permitted by this section, the amount deducted under this Part from rent payments to him or from timber royalties paid to him and remitted to the Receiver General of Canada shall be deemed to have been paid on account of tax under this section and any portion of the amount so remitted to the Receiver General of Canada in a taxation year in excess of the tax under this section for the year shall be refunded to him.

**(2).** Subsection 110(2)



## Section 216

|  |  |
|--|--|
| Idem   | (3) Part I is applicable <i>mutatis mutandis</i> to payment of tax under this section.   |
| Optional method of payment   | <p>(4) Where a non-resident person has filed with the Minister an undertaking in prescribed form to file a return of income under Part I for a taxation year as permitted by this section but within 6 months from the end of the taxation year, a person who is otherwise required by subsection 215(3) to remit in the year an amount to the Receiver General of Canada in payment of tax on rent on real property or in payment of tax on a timber royalty may elect, by virtue of this section, not to remit under that subsection but if he does so elect</p> <p>(a) he shall, when any amount is available out of the rent or royalty received for remittance to the non-resident person, deduct therefrom 25% thereof and remit the amount deducted to the Receiver General of Canada on behalf of the non-resident person on account of the tax under this Part, and</p> <p>(b) he shall, if the non-resident person</p> <p>(i) does not file a return for the taxation year in accordance with the undertaking filed by him with the Minister, or</p> <p>(ii) does not pay the tax he is liable to pay for the taxation year under this section within the time limited for payment,</p> <p>pay to the Receiver General of Canada, upon the expiration of the time for filing or payment, as the case may be, the full amount that he would otherwise have been required to remit in the year minus the amounts that he has remitted in the year under paragraph (a).</p> |
| Disposition by non-resident of interest in real property or timber limit | (5) Where a non-resident person has filed a return of income under Part I for a taxation year as permitted by this section and has, in computing his income under Part I for that year, deducted an amount under paragraph 20(1)(a) in respect of real property in Canada  |

(3). Subsection 110(3)

(4). Subsection 110(4), modified

(5). Subsection 110(5)

or a timber limit in Canada, he shall, within the time prescribed by section 150 for filing a return of income under Part I, file a return of income under Part I, in the form prescribed for a person resident in Canada, for any subsequent taxation year in which that real property or timber limit or any interest therein is disposed of, within the meaning of section 13, by him, and he shall, without affecting his liability for tax otherwise payable under Part I, thereupon be liable, in lieu of paying tax under this Part on any amount paid to him or deemed by this Part to have been paid to him in that subsequent taxation year in respect of any interest of that person in real property in Canada or timber limits in Canada, to pay tax under Part I for that subsequent taxation year as though

- (a) he were a person resident in Canada,
- (b) his interest in real property in Canada or timber limits in Canada were his only source of income, and
- (c) he were not entitled to any deduction from income in computing his taxable income.

Saving  
provision

(6) Subsection (5) does not apply to require a non-resident person to file a return of income under Part I for a taxation year unless, by filing that return, there would be included in computing his income under Part I for that year an amount by virtue of subsection 13(1).

(6). Subsection 110(6)

Election

(7) Where, by virtue of subsection (5), a non-resident person is liable to pay tax under Part I for a taxation year, for greater certainty section 61 is not applicable in computing his income for the year.

(7). New

217. Where by virtue of paragraphs 212(1)(h) to (m) a non-resident person would otherwise be liable to pay tax under this Part on one or more amounts paid or credited to him in a taxation year and that person has, within 6 months after the end of the year, filed a return of income under Part I for the year and so elected therein, the following rules apply:

(a) notwithstanding subsection 212(1), no tax under this Part is payable by him on those amounts; and

(b) notwithstanding section 115, for the purposes of computing his taxable income earned in Canada for the year,

(i) there shall be added to the aggregate of the amounts determined under subparagraphs 115(1)(a)(i) to (v) in respect of that person the aggregate of amounts each of which is an amount paid or credited to the non-resident person in the year on which he would, by virtue of paragraphs 212(1)(h) to (m), be liable to pay tax under this Part if

(A) paragraph 212(1)(h) were read without reference to subparagraph (i) thereof, and

(B) the reference in sub-paragraph 212(1)(i)(ii) to "\$1,290" were read as a reference to "nil",

(ii) there may be deducted such of the amounts permitted by section 109 as would, if he had been resident in Canada throughout the year, have been deductible from his income for the year for the purpose of computing taxable income, and

(iii) section 115 shall be read as if the reference therein to "the aggregate of such of the deductions from income permitted for the purpose of computing taxable income" were read as a reference to "the aggregate of such of the deductions from income (other than under section 109) permitted for the purpose of computing taxable income".

217. New

Loan to  
wholly-  
owned sub-  
sidiary

218. (1) For the purposes of this Act,  
where

(a) a non-resident corporation (in this section referred to as the "parent corporation") is indebted to

(i) a person resident in Canada, or

(ii) a non-resident insurance corporation carrying on business in Canada,

(in this section referred to as the "creditor") under an arrangement whereby the parent corporation is required to pay interest in Canadian currency, and

(b) the parent corporation has loaned the money in respect of which it is so indebted, or a part thereof, to a subsidiary wholly-owned corporation resident in Canada whose principal business is the making of loans (in this section referred to as the "subsidiary corporation") under an arrangement whereby the subsidiary corporation is required to repay the loan to the parent corporation with interest at the same rate as is payable by the parent corporation to the creditor,

the amount so loaned by the parent corporation to the subsidiary corporation shall be deemed to have been borrowed by the parent corporation as agent of the subsidiary corporation and interest paid by the subsidiary corporation to the parent corporation that has been paid by the parent corporation to the creditor shall be deemed to have been paid by the subsidiary corporation to the creditor and not by the subsidiary corporation to the parent corporation or by the parent corporation to the creditor.

Idem

(2) Where a parent corporation has loaned money to a subsidiary wholly-owned corporation resident in Canada whose principal business is not the making of loans and the money has been loaned by that corporation to a subsidiary corporation wholly-owned by it and resident in Canada whose principal business is the making of loans, the loan by the parent corporation shall be deemed, for the purpose of subsection (1), to have been a loan to a subsidiary wholly-owned corporation whose principal business is the making of loans.

218. (1). Subsection 110A(1)

(2). Subsection 110A(2)



## Section 218

- Election** (3) This section does not apply in respect of any payment of interest unless the parent corporation and the creditor have executed, and filed with the Minister, an election in prescribed form.
- Application of election** (4) An election filed under subsection (3) does not apply in respect of any payment of interest made more than 12 months before the date on which the election was filed with the Minister.
- (3). Subsection 110A(3)
- (4). Subsection 110A(4)

## PART XIV

ADDITIONAL TAX ON CORPORATIONS  
(OTHER THAN CANADIAN CORPORA-  
TIONS) CARRYING ON BUSINESS IN  
CANADA

- Additional tax** **219.** (1) Every corporation carrying on business in Canada at any time in a taxation year (other than a corporation that was, throughout the year, a Canadian corporation) shall, on or before the day on or before which it is required to file a return of income under Part I for the year, pay a tax under this Part for the year equal to 25% of the amount by which the aggregate of
- (a) the corporation's amount taxable (within the meaning given that expression in section 123) for the taxation year,
  - (b) the amount claimed by the corporation under paragraph (h) for the immediately preceding taxation year, and
  - (c) where the corporation was resident in Canada at any time in the year, the amount claimed under paragraph (b) for the immediately preceding taxation year,
- exceeds the aggregate of,
- (d) where the corporation was, throughout the year, not resident in Canada, the lesser of
  - (i) the amount, if any, by which the aggregate of amounts each of which is a taxable capital gain of the corporation for the year from a disposition of a taxable Canadian property that was not property used in the year in, or held in the year in the course of, carrying on business in Canada, exceeds the aggregate of amounts each of which is an allowable capital loss
- 219.** (1). Subsection 110B(1), modified

*Subsection 219(1)*

of the corporation for the year from a disposition of any such property, and

(ii) the amount that would be determined under subparagraph (i) for the year if it were read without reference to the expression "that was not property used in the year in, or held in the year in the course of, carrying on business in Canada",

(e) the tax payable by it under Part I for the year less, where the corporation was, at no time in the year, resident in Canada, that proportion thereof that the amount determined under paragraph (d) in respect of the corporation for the year is of the corporation's amount taxable for the year,

(f) any income taxes payable by it to the government of a province in respect of the year (to the extent that such taxes were not deductible under Part I in computing its income for the year from businesses carried on by it in Canada) less, where the corporation was, at no time in the year, resident in Canada, that proportion thereof that the amount determined under paragraph (d) in respect of the corporation for the year is of the corporation's amount taxable for the year,

(g) where the corporation was resident in Canada at any time in the year

(i) the amount deducted under section 126 from the tax for the year otherwise payable by the corporation under Part I, and

(ii) 1/2 of the lesser of the corporation's taxable income for the year and the amount, if any, by which

*Subsection 219(1)*

(A) the aggregate of such of its incomes for the year from businesses or properties and its taxable capital gains for the year from dispositions of property as were from sources in countries other than Canada

exceeds

(B) the aggregate of such of its losses for the year from businesses or properties and its allowable capital losses for the year from dispositions of property as were from sources in countries other than Canada,

(h) where the corporation was, at the end of the year, carrying on business in Canada, such amount as the corporation may claim for the year, not exceeding the amount prescribed to be its allowance for the year in respect of its investment in property in Canada, and

(i) where the corporation was resident in Canada at any time in the year, such amount as the corporation may claim for the year, not exceeding the amount, if any, by which

(i) the aggregate of dividends paid by it after it last became resident in Canada, while it was resident in Canada and before the end of the year

exceeds

(ii) the aggregate of amounts determined under subparagraph (g)(ii) in respect of the corporation for taxation years ending after it last became resident in Canada and not later than the end of the year.

Exempt  
corpora-  
tions

(2) No tax is payable under this Part for a taxation year by a corporation that was, throughout the year,

(a) a bank,

(b) a corporation whose principal business was

(i) the transportation of persons or goods,

(ii) communications, or

(iii) mining iron ore in Canada, or

(2). Subsection 110B(2), modified

## Subsection 219(2)

(c) a corporation exempt from tax under section 149.

Provisions  
applicable  
to Part

(3) Sections 150 to 167, except sections 153, 155, 156 and 160, are applicable *mutatis mutandis* to this Part.

(3). Subsection 110B(3)

Non-  
resident  
insurers

(4) No tax is payable under subsection (1) for a taxation year by a non-resident insurer, but where it elects, in prescribed manner and within the prescribed time, to deduct, in computing its Canadian investment fund as of the end of the immediately following taxation year, an amount not greater than the amount, if any, by which

(4). Subsection 110B(4), modified

(a) the amount of its Canadian investment fund as of the end of the year

exceeds

(b) the amount, as determined for the purposes of the relevant authority, of such of the insurer's liabilities (other than liabilities in respect of amounts payable out of segregated funds) as of the end of the year as may reasonably be regarded to have been incurred by it in the course of carrying on its insurance businesses in Canada,

it shall, on or before the day on or before which it is required to file a return under Part I for the year, pay a tax for the year equal to 25% of the amount it has so elected to deduct.

Additional  
tax on non-  
resident  
insurer

(5) In addition to any tax payable by it under subsection (4), a non-resident insurer shall, on or before the day on or before which it is required to file a return under Part I for a taxation year, pay a tax for the year equal to 25% of the amount, if any, by which

(5). Subsection 110B(5), modified

(a) the amount of its Canadian investment fund as of the end of the year

exceeds

(b) the greater of the value, as of the end of the year, of the Canadian assets owned by it at that time and the value, as of a time not later than the day on or before which the insurer is required to file a return under Part I for the year, of the Canadian assets owned by it at that time.

Where  
election  
under  
ss. 138(9)

(6) Where a non-resident insurer has made an election under subsection 138(9) in respect of a taxation year, no tax is payable by it under

(6). Subsection 110B(6), modified



subsection (4) or (5) for the year or the immediately preceding taxation year but the insurer shall, on or before the day on or before which it is required to file a return under Part I for the year, pay a tax for the year equal to 25% of the amount, if any, by which the amount that would, if the insurer had not so elected, be the insurer's Canadian investment fund as of the end of the year exceeds the value, as of the end of the year, of property of the insurer used by it in the year in, or held by it in the year in the course of, carrying on its insurance businesses in Canada.

## Definitions

"Canadian asset" and "Canadian investment fund"

"Property used", etc., in carrying on business in Canada

"Relevant authority"

"Segregated fund"

"Value"

(7) In this Part,

(a) "Canadian asset" and "Canadian investment fund" have the meanings prescribed for those expressions;

(b) "property used in the year in, or held in the year in the course of" carrying on business in Canada has, where applicable, the meaning assigned by subsection 138(12);

(c) "relevant authority" has the meaning given that expression in subsection 138(12);

(d) "segregated fund" has the meaning given that expression in subsection 148(1); and

(e) "value",

- (i) in relation to land other than depreciable property means the capital cost thereof to the owner,
- (ii) in relation to depreciable property means the undepreciated capital cost, as defined in subsection 13(21), of such property to the owner, and
- (iii) in relation to any property not described in subparagraph (i) or (ii), means,

(A) where the owner is a life insurer resident in Canada, the value thereof as determined for the purposes of the relevant authority, and

(7). Subsection 110B(7), modified

(B) in any other case, the value thereof as it would have been determined for the purposes of the relevant authority if the owner had been a life insurer resident in Canada and registered under the *Canadian and British Insurance Companies Act* to carry on an insurance business in Canada.

## PART XV

### ADMINISTRATION AND ENFORCEMENT

#### *Administration*

Minister's  
duty

220. (1) The Minister shall administer and enforce this Act and control and supervise all persons employed to carry out or enforce this Act and the Deputy Minister of National Revenue for Taxation may exercise all the powers and perform the duties of the Minister under this Act.

220. (1). Subsection 116(1)

Officers,  
clerks

(2) Such officers, clerks and employees as are necessary to administer and enforce this Act shall be appointed or employed in the manner authorized by law.

(2). Subsection 116(2)

Extensions  
for  
returns

(3) The Minister may at any time extend the time for making a return under this Act.

(3). Subsection 116(3)

Security

(4) The Minister may, if he considers it advisable in a particular case, accept security for payment of taxes by way of mortgage or other charge of any kind whatever on property of the taxpayer or any other person or by way of guarantee from other persons.

(4). Subsection 116(4)

Administra-  
tion of oaths

(5) Any officer or servant employed in connection with the administration or enforcement of this Act, if he is designated by the Minister for the purpose, may, in the course of his employment, administer oaths and take and receive affidavits, declarations and affirmations for the purposes of or incidental to the administration or enforcement of this Act or regulations made thereunder, and every officer or servant so designated has for such purposes all the powers of a commissioner for administering oaths or taking affidavits.

(5). Subsection 116(5)

221. (1) The Governor in Council may make regulations

- (a) prescribing anything that, by this Act, is to be prescribed or is to be determined or regulated by regulation,
- (b) prescribing the evidence required to establish facts relevant to assessments under this Act,
- (c) to facilitate the assessment of tax where deductions or exemptions of a taxpayer have changed in a taxation year,
- (d) requiring any class of persons to make information returns respecting any class of information required in connection with assessments under this Act,
- (e) requiring a person who is, by a regulation made under paragraph (d), required to make an information return to supply a copy of the information return or of a prescribed portion thereof to the person or persons in respect of whose income the information return or portion thereof relates,
- (f) authorizing a designated officer or class of officers to exercise powers or perform duties of the Minister under this Act,
- (g) providing for the retention by way of deduction or set off of the amount of a taxpayer's income tax or other indebtedness under this Act out of any amount or amounts that may be or become payable by Her Majesty to him in respect of salary or wages,
- (h) defining the classes of persons who may be regarded as dependent for the purposes of this Act,
- (i) defining the classes of non-resident persons who may be regarded for the purposes of this Act
  - (i) as a spouse supported by a taxpayer,
  - or

221. (1). Subsection 117(1), modified

*Subsection 221(1)*

(ii) as a person dependent or wholly dependent upon a taxpayer for support, and specifying the evidence required to establish that a person belongs to any such class, and

(j) generally to carry out the purposes and provisions of this Act.

Publication

(2) No regulation made under this Act has effect until it has been published in the *Canada Gazette* but, when so published, a regulation shall, if it so provides, be effective with reference to a period before it was published.

(2). Subsection 117(2)

*Collection*Debts  
to Her  
Majesty

222. All taxes, interest, penalties, costs and other amounts payable under this Act are debts due to Her Majesty and recoverable as such in the Federal Court of Canada or any other court of competent jurisdiction or in any other manner provided by this Act.

222. Section 118

Certificates

223. (1) An amount payable under this Act that has not been paid or such part of an amount payable under this Act as has not been paid may be certified by the Minister

(a) where there has been a direction by the Minister under subsection 158(2), forthwith after such direction, and

(b) otherwise, upon the expiration of 30 days after the default.

223. (1). Subsection 119(1)

Judgments

(2) On production to the Federal Court of Canada, a certificate made under this section shall be registered in the Court and when registered has the same force and effect, and all proceedings may be taken thereon, as if the certificate were a judgment obtained in the said Court for a debt of the amount specified in the certificate plus interest to the day of payment as provided for in this Act.

(2). Subsection 119(2)



## Section 223

Costs

(3) All reasonable costs and charges attendant upon the registration of the certificate are recoverable in like manner as if they had been certified and the certificate had been registered under this section.

(3). Subsection 119(3)

Garnish-  
ment

224. (1) When the Minister has knowledge or suspects that a person is or is about to become indebted or liable to make any payment to a person liable to make a payment under this Act, he may, by registered letter or by a letter served personally, require him to pay the moneys otherwise payable to that person in whole or in part to the Receiver General of Canada on account of the liability under this Act.

224. (1). Subsection 120(1)

Idem

(2) The receipt of the Minister for moneys paid as required under this section is a good and sufficient discharge of the original liability to the extent of the payment.

(2). Subsection 120(2)

Idem

(3) Where the Minister has, under this section, required an employer to pay to the Receiver General of Canada on account of an employee's liability under this Act moneys otherwise payable by the employer to the employee as remuneration, the requirement is applicable to all future payments by the employer to the employee in respect of remuneration until the liability under this Act is satisfied and operates to require payments to the Receiver General out of each payment of remuneration of such amount as may be stipulated by the Minister in the registered letter.

(3). Subsection 120(3)

Idem

(4) Every person who has discharged any liability to a person liable to make a payment under this Act without complying with a requirement under this section is liable to pay to Her Majesty an amount equal to the liability discharged or the amount which he was required under this section to pay to the Receiver General of Canada, whichever is the lesser.

(4). Subsection 120(4)

## Section 224

Service of  
garnishee

(5) Where the person who is or is about to become indebted or liable carries on business under a name or style other than his own name, the registered or other letter under subsection (1) may be addressed to the name or style under which he carries on business and, in the case of personal service, shall be deemed to have been validly served if it has been left with an adult person employed at the place of business of the addressee.

(5). Subsection 120(5)

Idem

(6) Where the persons who are or are about to become indebted or liable carry on business in partnership, the registered or other letter under subsection (1) may be addressed to the partnership name and, in the case of personal service, shall be deemed to have been validly served if it has been served on one of the partners or left with an adult person employed at the place of business of the partnership.

(6). Subsection 120(6)

Seizure of  
chattels

225. (1) Where a person has failed to make a payment as required by this Act, the Minister, on giving 10 days' notice by registered mail addressed to his last known place of residence, may, whether or not there is an objection to or appeal in respect of the assessment not disposed of, issue a certificate of the failure and direct that the goods and chattels of the person in default be seized.

225. (1). Subsection 121(1)

Idem

(2) Property seized under this section shall be kept for 10 days at the cost and charges of the owner and, if he does not pay the amount due together with the costs and charges within the 10 days, the property seized shall be sold by public auction.

(2). Subsection 121(2)

Idem

(3) Except in the case of perishable goods, notice of the sale setting forth the time and place thereof, together with a general description of the property to be sold shall, a reasonable time before the goods are sold, be published at least once in one or more newspapers of general local circulation.

(3). Subsection 121(3)

Idem

(4) Any surplus resulting from the sale after deduction of the amount owing and all costs and charges shall be paid or returned to the owner of the property seized.

(4). Subsection 121(4)

## Section 225

|                                       |   |                             |
|---------------------------------------|---|-----------------------------|
| Idem                                  | (5) Such goods and chattels of any person in default as would be exempt from seizure under a writ of execution issued out of a superior court of the province in which the seizure is made are exempt from seizure under this section.  | (5). Subsection 121(5)      |
| Taxpayer leaving Canada or defaulting | 226. (1) Where the Minister suspects that a taxpayer is about to leave Canada, he may before the day otherwise fixed for payment, by notice served personally or by registered letter addressed to the taxpayer, demand payment of all taxes, interest and penalties for which the taxpayer is liable or would be liable if the time for payment had arrived, and the same shall be paid forthwith notwithstanding any other provision of this Act. | 226. (1). Subsection 122(1) |
| Idem                                  | (2) Where a person has failed to pay tax, interest or penalties demanded under this section as required, the Minister may direct that the goods and chattels of the taxpayer be seized and subsections 225(2) to (5) are, thereupon, applicable <i>mutatis mutandis</i> .   | (2). Subsection 122(2)      |
| Withholding taxes                     | 227. (1) No action lies against any person for withholding or deducting any sum of money in compliance or intended compliance with this Act.  | 227. (1). Subsection 123(1) |
| Idem                                  | (2) Every person whose employer is required to deduct or withhold any amount from his remuneration under section 153 shall, from time to time as prescribed, file a return with his employer in prescribed form.  | (2). Subsection 123(2)      |
| Idem                                  | (3) Every person failing to file a form as required by subsection (2) is liable to have the deduction or withholding from his salary or wages under section 153 made as though he were an unmarried person without dependants.  | (3). Subsection 123(3)      |
| Idem                                  | (4) Every person who deducts or withholds any amount under this Act shall be deemed to hold the amount so deducted or withheld in trust for Her Majesty.  | (4). Subsection 123(4)      |

## Section 227

- |      |  |                                   |
|------|--|-----------------------------------|
| Idem | <p>(5) All amounts deducted or withheld by a person under this Act shall be kept separate and apart from his own moneys and in the event of any liquidation, assignment or bankruptcy the said amounts shall remain apart and form no part of the estate in liquidation, assignment or bankruptcy.</p>   | (5). Subsection 123(5)            |
| Idem | <p>(6) Where a person on whose behalf an amount has been paid to the Receiver General of Canada after having been deducted or withheld under Part XIII was not liable to pay any tax under that Part or where the amount so paid to the Receiver General of Canada on his behalf is in excess of the tax that he was liable to pay, the Minister shall, upon application in writing made within two years from the end of the calendar year in which the amount was paid, pay to him the amount so paid or such part thereof as he was not liable to pay, unless he is otherwise liable or about to become liable to make a payment under this Act, in which case the Minister may apply the amount otherwise payable under this subsection to that payment and notify him of that fact.</p> | (6). Subsection 123(7)            |
| Idem | <p>(7) Where, upon application by or on behalf of a person to the Minister pursuant to subsection (6) in respect of an amount paid to the Receiver General of Canada that was deducted or withheld under Part XIII, the Minister is not satisfied</p> <p style="padding-left: 20px;">(a) that the person was not liable to pay any tax under that Part, or</p> <p style="padding-left: 20px;">(b) that the amount paid to the Receiver General of Canada was in excess of the tax that the person was liable to pay</p> <p>the Minister shall assess that person for any amount payable by him under Part XIII and send a notice of assessment to that person, whereupon Divisions I and J of Part I are applicable <i>mutatis mutandis</i>.</p>   | (7). Subsection 123(7a), modified |
| Idem | <p>(8) Any person who has failed to deduct or withhold any amount as required by this Act or a regulation is liable to pay to Her Majesty</p>  | (8). Subsection 123(8), modified  |



## Subsection 227(8)

(a) if the amount should have been deducted or withheld under subsection 153(1) from an amount that has been paid to a person resident in Canada, or should have been deducted or withheld under section 215 from an amount that has been paid to a person not resident in Canada, 10% of the amount that should have been deducted or withheld, and

(b) in any other case, the whole amount that should have been deducted or withheld, together with interest thereon at a prescribed rate per annum.

Idem (9) Every person who has failed to remit or pay

(a) an amount deducted or withheld as required by this Act or a regulation, or

(b) an amount of tax that he is, by a regulation made under subsection 215(4), required to pay,

is liable to a penalty of 10% of that amount or \$10, whichever is the greater, in addition to the amount itself, together with interest on the amount at the rate per annum prescribed for the purposes of subsection (8).

Assessment

(10) The Minister may assess any person for any amount payable by that person under Part XIII, this section or section 235 and, upon his sending a notice of assessment to that person, Divisions I and J of Part I are applicable *mutatis mutandis*.

Withholding tax

(11) Provisions of this Act requiring a person to deduct or withhold an amount in respect of taxes from amounts payable to a taxpayer are applicable to Her Majesty in right of Canada or a province.

Idem

(12) Where this Act requires an amount to be deducted or withheld, an agreement by the person on whom that obligation is imposed not to deduct or withhold is void.

(9). Subsection 123(9), modified

(10). Subsection 123(10), modified

(11). Subsection 123(11)

(12). Subsection 123(12)

## Section 227

Idem

(13) The receipt of the Minister for an amount withheld or deducted by any person as required by or under this Act is a good and sufficient discharge of the liability of any debtor to his creditor with respect thereto to the extent of the amount referred to in the receipt.

(13). Subsection 123(13)

Applica-  
tion of  
Parts II  
to IX to  
certain  
public  
corpo-  
rations

(14) Parts II to IX are not applicable to any corporation that was, at any time or for any period that is relevant for the purposes of any of those Parts, a corporation exempt from tax under section 149.

(14). New

Applica-  
tion of  
collection  
agreement

228. Where a payment is made to the Minister on account of tax under this Act, an Act of a province that imposes a tax similar to the tax imposed under this Act, or any two or more such Acts, such part of that payment as is applied by the Minister in accordance with the provisions of a collection agreement entered into under Part III of the *Federal-Provincial Fiscal Arrangements Act* against the tax payable by a taxpayer for a taxation year under this Act discharges the liability of the taxpayer for such tax only to the extent of the part of the payment so applied, notwithstanding that the taxpayer directed that the payment be applied in a manner other than that provided in the collection agreement or made no direction as to its application.

228. Section 123A

Receipt of  
taxes by  
banks

229. A chartered bank in Canada shall receive for deposit, without any charge for discount or commission, any cheque made payable to the Receiver General of Canada in payment of tax, interest or penalty imposed by this Act, whether drawn on the bank receiving the cheque or on any other chartered bank in Canada.

229. Section 124

*General*Books  
and  
records

230. (1) Every person carrying on business and every person who is required, by or pursuant to this Act, to pay or collect taxes or other amounts shall keep records and books of account (including an annual inventory kept in prescribed manner) at his place of business or residence in Canada or at such other place as may be designated by the Minister, in such form and containing such information as will enable the taxes payable under this Act or the taxes or other amounts that should have been deducted, withheld or collected to be determined.

Idem

(2) Every registered Canadian charitable organization and registered Canadian amateur athletic association shall keep records and books of account (including a duplicate of each receipt containing prescribed information for a donation received by it) at an address in Canada recorded with the Minister or designated by the Minister in such form and containing such information as will enable the donations to it that are deductible under this Act to be verified.

Idem

(3) Where a person has failed to keep adequate records and books of account for the purposes of this Act, the Minister may require him to keep such records and books of account as he may specify and that person shall thereafter keep records and books of account as so required.

Idem

(4) Every person required by this section to keep records and books of account shall, until written permission for their disposal is obtained from the Minister, retain every such record or book of account and every account or voucher necessary to verify the information in any such record or books of account.

Investiga-  
tions

231. (1) Any person thereunto authorized by the Minister for any purpose related to the administration or enforcement of this Act may, at all reasonable times, enter into any premises or place where any business is carried on or any

230. (1). Subsection 125(1)

(2). Subsection 125(1a), modified

(3). Subsection 125(2)

(4). Subsection 125(3)

231. (1). Subsection 126(1), modified

*Subsection 231(1)*

property is kept or anything is done in connection with any business or any books or records are, or should be, kept pursuant to this Act and

(a) audit or examine the books and records and any account, voucher, letter, telegram or other document which relates or may relate to the information that is or should be in the books or records or the amount of tax payable under this Act,

(b) examine property described by an inventory or any property, process or matter an examination of which may, in his opinion, assist him in determining the accuracy of an inventory or in ascertaining the information that is or should be in the books or records or the amount of any tax payable under this Act,

(c) require the owner or manager of the property or business and any other person on the premises or place to give him all reasonable assistance with his audit or examination and to answer all proper questions relating to the audit or examination either orally or, if he so requires, in writing, on oath or by statutory declaration and, for that purpose, require the owner or manager to attend at the premises or place with him, and

(d) if, during the course of an audit or examination, it appears to him that there has been a violation of this Act or a regulation, seize and take away any of the documents, books, records, papers or things that may be required as evidence as to the violation of any provision of this Act or a regulation.

(2) The Minister shall,

(a) within 120 days from the date of seizure of any documents, books, records, papers or things pursuant to paragraph (1)(d), or

(2). New



(b) if within that time an application is made under this subsection that is, after the expiration of that time, rejected, then forthwith upon the disposition of the application, return the documents, books, records, papers or things to the person from whom they were seized unless a judge of a superior court or county court, on application made by or on behalf of the Minister, supported by evidence on oath establishing that the Minister has reasonable and probable grounds to believe that there has been a violation of this Act or a regulation and that the seized documents, books, records, papers or things are or may be required as evidence in relation thereto, orders that they be retained by the Minister until they are produced in any court proceedings, which order the judge is hereby empowered to give on *ex parte* application.

Idem.

(3) The Minister may, for any purposes related to the administration or enforcement of this Act, by registered letter or by a demand served personally, require from any person

(a) any information or additional information, including a return of income or a supplementary return, or

(b) production, or production on oath, of any books, letters, accounts, invoices, statements (financial or otherwise) or other documents,

within such reasonable time as may be stipulated therein.

Search

(4) Where the Minister has reasonable and probable grounds to believe that a violation of this Act or a regulation has been committed or is likely to be committed, he may, with the approval of a judge of a superior or county court, which approval the judge is hereby empowered to give on *ex parte* application, authorize in writing any officer of the Department of National Revenue, together with such members of the Royal Canadian Mounted Police or other peace officers as he calls on to assist him and such other persons as may be named therein, to enter and search, if necessary by force, any building, receptacle or place for documents, books, records, papers or things that may afford evidence as to the violation of

(3). Subsection 126(2)

(4). Subsection 126(3), modified

*Subsection 231(4)*

any provision of this Act or a regulation and to seize and take away any such documents, books, records, papers or things and retain them until they are produced in any court proceedings.

Evidence  
in support  
of applica-  
tion

(5) An application to a judge under subsection (4) shall be supported by evidence on oath establishing the facts upon which the application is based.

(5). New

Access  
and  
copies

(6) The person from whom any documents, books, records, papers or things are seized pursuant to paragraph (1)(a) or subsection (4) is, at all reasonable times and subject to such reasonable conditions as may be determined by the Minister, entitled to inspect the seized documents, books, records, papers or things and to obtain copies thereof at his own expense.

(6). New

Inquiry

(7) The Minister may, for any purpose related to the administration or enforcement of this Act, authorize any person, whether or not he is an officer of the Department of National Revenue, to make such inquiry as he may deem necessary with reference to anything relating to the administration or enforcement of this Act.

(7). Subsection 126(4)

Appoint-  
ment of  
hearing  
officer

(8) Where the Minister, pursuant to subsection (7), authorizes a person to make an inquiry, the Minister shall forthwith apply to the Tax Review Board for an order appointing a hearing officer before whom the inquiry will be held.

(8). New

Copies

(9) Where any book, record or other document has been seized, examined or produced under this section, the person by whom it is seized or examined or to whom it is produced or any officer of the Department of National Revenue may make, or cause to be made, one or more copies thereof and a document purporting to be certified by the Minister or a person thereunto authorized by the Minister to be a copy made pursuant to this section is admissible in evidence and has the same probative force as the original document would have if it had been proven in the ordinary way.

(9). Subsection 126(5)

## Section 231

Compliance

(10) No person shall hinder or molest or interfere with any person doing anything that he is authorized by or pursuant to this section to do or prevent or attempt to prevent any person doing any such thing and, notwithstanding any other law to the contrary, every person shall, unless he is unable to do so, do everything he is required by or pursuant to this section to do.

(10). Subsection 126(6)

Administration of oaths

(11) Every person thereunto authorized by the Minister may administer or receive an oath, affirmation or statutory declaration required to be given by or pursuant to this section.

(11). Subsection 126(7)

Powers of hearing officer

(12) For the purposes of an inquiry authorized under subsection (7), a hearing officer appointed under subsection (8) in relation thereto has all the powers conferred on a commissioner by sections 4 and 5 of the *Inquiries Act* and that may be conferred on a commissioner under section 11 thereof.

(12). Subsection 126(8), modified

When powers to be exercised

(13) A hearing officer appointed under subsection (8) in relation to an inquiry shall exercise the powers conferred on a commissioner by section 4 of the *Inquiries Act* in relation to such persons as the person authorized to make the inquiry considers appropriate for the conduct thereof; but the hearing officer shall not exercise the power to punish any person unless, on application by the hearing officer, a judge of a superior or county court certifies that such power may be exercised in the matter disclosed in the application and the applicant has given to the person in respect of whom he proposes to exercise such power 24 hours' notice of the hearing of the application or such shorter notice as the judge deems reasonable.

(13). New

Rights of witness at inquiry

(14) Any person who gives evidence in an inquiry authorized under subsection (7) is entitled to be represented by counsel and, upon request made by him to the Minister, to receive a transcript of the evidence given by him.

(14). New

## Section 231

(15). New

Rights of  
person  
whose  
affairs are  
investi-  
gated

(15) Any person whose affairs are investigated in the course of an inquiry authorized under subsection (7) is entitled to be present and to be represented by counsel throughout the inquiry unless the hearing officer appointed under subsection (8) in relation to the inquiry, on application by the Minister or a person giving evidence, orders otherwise in relation to the whole or any part of the inquiry on the ground that the presence of the person and his counsel, or either of them, would be prejudicial to the effective conduct of the inquiry.

Definitions

"Judge"

232. (1) In this section,

(a) "judge" means a judge of a superior court having jurisdiction in the province where the matter arises or a judge of the Federal Court of Canada;

"Custodian"

(b) "custodian" means a person in whose custody a package is placed pursuant to subsection (3);

"Lawyer"

(c) "lawyer" means, in the province of Quebec, an advocate, lawyer or notary and, in any other province of Canada, a barrister or solicitor;

"Officer"

(d) "officer" means a person acting under authority conferred by or under section 231; and

"Solicitor-client  
privilege"

(e) "solicitor-client privilege" means the right, if any, that a person has in a superior court in the province where the matter arises to refuse to disclose an oral or documentary communication on the ground that the communication is one passing between him and his lawyer in professional confidence, except that for the purposes of this section an accounting record of a lawyer, including any supporting voucher or cheque, shall be deemed not to be such a communication.

232. (1). Subsection 126A(1)

Solicitor-  
client  
privilege  
defence

(2) Where a lawyer is prosecuted for failure to comply with a requirement under section 231 to give information or to produce a document, he shall be acquitted if he establishes to the satisfaction of the court

(2). Subsection 126A(2)



*Subsection 232(2)*

(a) that he, on reasonable grounds, believed that a client of his has a solicitor-client privilege in respect of the information or document; and

(b) that the lawyer communicated to the Minister, or some person duly authorized to act for the Minister, his refusal to comply with the requirement together with a claim that a named client of the lawyer has a solicitor-client privilege in respect of the information or document.

Examina-  
tion or  
seizure of  
certain  
documents  
where  
privilege  
claimed

(3) Where an officer is about to examine or seize a document in the possession of a lawyer and the lawyer claims that a named client of his has a solicitor-client privilege in respect of that document, the officer shall, without examining or making copies of the document,

(3). Subsection 126A(3)

(a) seize the document and place it, together with any other document in respect of which the lawyer at the same time makes the same claim on behalf of the same client, in a package and suitably seal and identify the package; and

(b) place the package in the custody of the sheriff of the district or county in which the seizure was made or, if the officer and the lawyer agree in writing upon a person to act as custodian, in the custody of such person.

Application  
to judge

(4) Where a document has been seized and placed in custody under subsection (3), the client, or the lawyer on behalf of the client, may

(4). Subsection 126A(4)

(a) within 14 days from the day the document was so placed in custody, apply, upon 3 days' notice of motion to the Deputy Attorney General of Canada, to a judge for an order

(i) fixing a day (not later than 21 days after the date of the order) and place for the determination of the question whether the client has a solicitor-client privilege in respect of the document, and

*Subsection 232(4)*

(ii) requiring the custodian to produce the document to the judge at that time and place;

(b) serve a copy of the order on the Deputy Attorney General of Canada and the custodian within 6 days of the day on which it was made, and, within the same time, pay to the custodian the estimated expenses of transporting the document to and from the place of hearing and of safeguarding it; and

(c) if he has proceeded as authorized by paragraph (b), apply, at the appointed time and place, for an order determining the question.

Disposition  
of appli-  
cation

(5) An application under paragraph (4)(c) shall be heard in camera, and on the application

(5). Subsection 126A(5)

(a) the judge may, if he considers it necessary to determine the question, inspect the document and, if he does so, he shall ensure that it is repackaged and resealed; and

(b) the judge shall decide the matter summarily and,

(i) if he is of opinion that the client has a solicitor-client privilege in respect of the document, shall order the custodian to deliver the document to the lawyer, and  
(ii) if he is of opinion that the client does not have a solicitor-client privilege in respect of the document, shall order the custodian to deliver the document to the officer or some other person designated by the Deputy Minister of National Revenue for Taxation,

and he shall, at the same time, deliver concise reasons in which he shall describe the nature of the document without divulging the details thereof.

Order to  
custodian  
to deliver

(6) Where a document has been seized and placed in custody under subsection (3) and a judge, on the application of the Attorney General of Canada, is satisfied that neither the client nor the lawyer has made an application under paragraph (4)(a), or, having made that application, neither the client nor the lawyer has made an application under paragraph (c) thereof, he shall order the custodian to deliver the document to the officer or some other person designated by the Deputy Minister of National Revenue for Taxation.

(6). Subsection 126A(6)

## Section 232

|  |   |                           |
|--|---|---------------------------|
| Delivery<br>by custo-<br>dian            | <p>(7) The custodian shall</p> <p>(a) deliver the document to the lawyer</p> <p>(i) in accordance with a consent executed by the officer or by or on behalf of the Deputy Attorney General of Canada or the Deputy Minister of National Revenue for Taxation, or</p> <p>(ii) in accordance with an order of a judge under this section; or</p> <p>(b) deliver the document to the officer or some other person designated by the Deputy Minister of National Revenue for Taxation</p> <p>(i) in accordance with a consent executed by the lawyer or the client, or</p> <p>(ii) in accordance with an order of a judge under this section.</p> | (7). Subsection 126A(7)   |
| Applica-<br>tions to<br>another<br>judge | (8) Where the judge to whom an application has been made under this section for any reason cannot act or continue to act under this section, subsequent applications under this section may be made to another judge.   | (8). Subsection 126A(8)   |
| Costs.                                   | (9) No costs may be awarded upon the disposition of any application under this section.   | (9). Subsection 126A(9)   |
| Directions                               | (10) Where any question arises as to the course to be followed in connection with anything done or being done under this section (other than subsection (2) or (3)) and there is no direction in this section with respect thereto, a judge may give such direction with regard thereto as, in his opinion, is most likely to carry out the object of this section of allowing solicitor-client privilege for proper purposes.  | (10). Subsection 126A(10) |
| Prohibition                              | (11) The custodian shall not deliver a document to any person except in accordance with an order of a judge or a consent under this section or except to any officer or servant of the custodian for the purposes of safeguarding the document.   | (11). Subsection 126A(11) |
| Idem                                     | (12) No officer shall examine or seize a document in the possession of a lawyer without giving him a reasonable opportunity of making a claim under subsection (3).   | (12). Subsection 126A(12) |

## Section 232

Authority  
to make  
copies

(13) At any time while a document is in the custody of a custodian under this section, a judge may, upon an *ex parte* application of the lawyer, authorize the lawyer to examine or make a copy of the document in the presence of the custodian or the judge by an order that shall contain such provisions as may be necessary to ensure that the document is repackaged and that the package is resealed without alteration or damage.

(13). Subsection 126A(13)

Waiver of  
claim of  
privilege

(14) Where a lawyer has, for the purpose of subsection (2) or (3), made a claim that a named client of his has a solicitor-client privilege in respect of information or a document, he shall at the same time communicate to the Minister or some person duly authorized to act for the Minister the address of the client last known to him so that the Minister may endeavour to advise the client of the claim of privilege that has been made on his behalf and may thereby afford him an opportunity, if it is practicable within the time limited by this section, of waiving the claim of privilege before the matter comes on to be decided by a judge or other tribunal.

(14). Subsection 126A(14)

Informa-  
tion  
return

233. Whether or not he has filed an information return as required by a regulation made under paragraph 221(1)(d), every person shall, on demand by registered letter from the Minister, file within such reasonable time as may be stipulated in the registered letter, with the Minister such prescribed information return as is designated in the letter.

233. Section 127

Ownership  
certificates.

234. (1) Before a bearer coupon or warrant representing either interest or dividends payable by any debtor or cheque representing dividends or interest payable by a non-resident debtor is negotiated by or on behalf of a resident of Canada, there shall be completed by or on behalf of the resident an ownership certificate in prescribed form.

234. (1). Subsection 128(1)



## Section 234

Idem. (2) An ownership certificate completed pursuant to subsection (1) shall be delivered in such manner, at such time and at such place as may be prescribed and a person who has failed to do so is liable on summary conviction to a fine of not less than \$10 and not exceeding \$100.

(2). Subsection 128(2)

Idem (3) The operation of this section may be extended by regulation to bearer coupons or warrants negotiated by or on behalf of non-resident persons.

(3). Subsection 128(3)

Idem (4) A person who has failed to complete an ownership certificate as required by or under this Act and a debtor or other person who has cashed a coupon or warrant for which an ownership certificate has not been completed, is liable on summary conviction to a fine of not less than \$10 and not exceeding \$100.

(4). Subsection 128(4)

Penalty  
for failure  
to make  
returns

235. (1) Every person who has failed to make a return as and when required by regulation under subsection 215(4), by regulation under section 221 or by subsection 227(2) is liable to a penalty of \$10 a day for each day of default but not exceeding in all \$2,500.

235. (1). Subsection 129(1)

(2) Every person who fails to comply with a regulation made under paragraph 221(1)(e) is liable to a penalty of \$10 a day for each day of default but not exceeding in all \$2,500.

(2). Subsection 129(2)

Execution  
of docu-  
ments by  
corporations

236. A return, certificate or other document made by a corporation pursuant to this Act or a regulation shall be signed on its behalf by the President, Secretary or Treasurer of the corporation or by any other officer or person thereunto duly authorized by the Board of Directors or other governing body of the corporation.

236. Section 130

Application  
for assign-  
ment of  
Social  
Insurance  
Number

237. (1) Every individual who is required by paragraph 150(1)(d) to file a return of his income for a taxation year after 1966 shall, on or before the first day of February of the year after the year for which the return is required, unless he has previously been assigned or made application to be assigned a Social Insurance Number, apply to the Minister of National Health and Welfare in prescribed form and manner for the assignment to him of a Social Insurance Number.

237. (1). Subsection 130A(1) :

Failure to  
show Social  
Insurance  
Number

(2) Every person who has filed a return of his income for a taxation year after 1966 and has failed to show therein the Social Insurance Number that has been assigned to him or for which he is required by this section to apply shall be deemed to have failed to complete the information on a prescribed form as required by or pursuant to section 150.

(2). Subsection 130A(2)

### *Offences*

Offences

238. (1) Every person who has failed to file a return as and when required by or under this Act or a regulation is guilty of an offence and, in addition to any penalty otherwise provided, liable on summary conviction to a fine of not less than \$25 for each day of default.

238. (1). Subsection 131(1)

Idem

(2) Every person who has failed to comply with or contravened subsection 116(3), 153(1) or 227(5), or section 230 or 231 is guilty of an offence and, in addition to any penalty otherwise provided, is liable on summary conviction to

(2). Subsection 131(2), modified

(a) a fine of not less than \$200 and not exceeding \$10,000, or

(b) both the fine described in paragraph (a) and imprisonment for a term not exceeding 6 months.

## Section 238

## Saving

(3) Where a person has been convicted under this section of failing to comply with a provision of this Act or a regulation, he is not liable to pay a penalty imposed under section 162, 227 or 235 for the same failure unless he was assessed for that penalty or that penalty was demanded from him before the information or complaint giving rise to the conviction was laid or made.

(3). Subsection 131(3)

## Offences

239. (1) Every person who has

(a) made, or participated in, assented to or acquiesced in the making of, false or deceptive statements in a return, certificate, statement or answer filed or made as required by or under this Act or a regulation,

(b) to evade payment of a tax imposed by this Act, destroyed, altered, mutilated, secreted or otherwise disposed of the records or books of account of a taxpayer,

(c) made, or assented to or acquiesced in the making of, false or deceptive entries, or omitted, or assented to or acquiesced in the omission, to enter a material particular, in records or books of account of a taxpayer,

(d) wilfully, in any manner, evaded or attempted to evade, compliance with this Act or payment of taxes imposed by this Act, or

(e) conspired with any person to commit an offence described by paragraphs (a) to (d), is guilty of an offence and, in addition to any penalty otherwise provided, is liable on summary conviction to

(f) a fine of not less than 25% and not more than double the amount of the tax that was sought to be evaded, or

(g) both the fine described in paragraph (f) and imprisonment for a term not exceeding 2 years.

239. (1). Subsection 132(1), modified

## Section 239

Idem

(2) Every person who is charged with an offence described by subsection (1) may, at the election of the Attorney General of Canada, be prosecuted upon indictment and, if convicted, is, in addition to any penalty otherwise provided, liable to imprisonment for a term not exceeding 5 years and not less than 2 months.

(2). Subsection 132(2)

Penalty upon conviction

(3) Where a person has been convicted under this section of wilfully, in any manner, evading or attempting to evade payment of taxes imposed by Part I, he is not liable to pay a penalty imposed under section 163 for the same evasion or attempt unless he was assessed for that penalty before the information or complaint giving rise to the conviction was laid or made.

(3). Subsection 132(3), modified

Stay of appeal

(4) Where, in any appeal under this Act, substantially the same facts are at issue as those that are at issue in a prosecution under this section, the Minister may file a stay of proceedings with the Tax Review Board or the Federal Court, as the case may be, and thereupon the proceedings before that Board or Court are stayed pending final determination of the outcome of the prosecution.

(4). New

"Taxable obligation" and "non-taxable obligation" defined

240. (1) In this section, "taxable obligation" means any bond, debenture or similar obligation the interest on which would, if paid by the issuer to a non-resident person, be subject to the payment of tax under Part XIII by that non-resident person at the rate provided in subsection 212(1) (otherwise than by virtue of subsection 212(6)), and "non-taxable obligation" means any bond, debenture or similar obligation the interest on which would not, if paid by the issuer to a non-resident person, be subject to the payment of tax under Part XIII by that non-resident person.

240. (1). Subsection 132A(1)



## Section 240

- Interest coupon to be identified in prescribed manner
- (2) Every person who, at any time after the 14th day of July, 1966, issues
- (a) any taxable obligation, or
  - (b) any non-taxable obligation
- the right to interest on which is evidenced by a coupon or other writing that does not form part of, or is capable of being detached from, the evidence of indebtedness under the obligation is, unless the coupon or other writing is marked or identified in prescribed manner by the letters "AX" in the case of a taxable obligation, and by the letter "F" in the case of a non-taxable obligation, on the face thereof, guilty of an offence and liable on summary conviction to a fine not exceeding \$500.
- Communication of information
241. (1) Except as authorized by this section, no official or authorized person shall
- (a) knowingly communicate or knowingly allow to be communicated to any person any information obtained by or on behalf of the Minister for the purposes of this Act, or
  - (b) knowingly allow any person to inspect or to have access to any book, record, writing, return or other document obtained by or on behalf of the Minister for the purposes of this Act.
- Idem
- (2) Notwithstanding any other Act or law, no official or authorized person shall be required, in connection with any legal proceedings,
- (a) to give evidence relating to any information obtained by or on behalf of the Minister for the purposes of this Act, or
  - (b) to produce any book, record, writing, return or other document obtained by or on behalf of the Minister for the purposes of this Act.
- (2). Subsection 132A(2), modified
241. (1). Subsection 133(1)
- (2). Subsection 133(2)

## Section 241

Idem (3) Subsections (1) and (2) do not apply in respect of criminal proceedings, either by indictment or on summary conviction, under an Act of the Parliament of Canada, or in respect of proceedings relating to the administration or enforcement of this Act.

(3). Subsection 133(3)

Exception (4) An official or authorized person may,  
(a) in the course of his duties in connection with the administration or enforcement of this Act,

(4). Subsection 133(4)

(i) communicate or allow to be communicated to an official or authorized person information obtained by or on behalf of the Minister for the purposes of this Act, and

(ii) allow an official or authorized person to inspect or to have access to any book, record, writing, return or other document obtained by or on behalf of the Minister for the purposes of this Act;

(b) under prescribed conditions, communicate or allow to be communicated information obtained under this Act, or allow inspection of or access to any written statement furnished under this Act to the government of any province in respect of which information and written statements obtained by the government of the province, for the purpose of a law of the province that imposes a tax similar to the tax imposed under this Act, is communicated or furnished on a reciprocal basis to the Minister; or

(c) communicate or allow to be communicated information obtained under this Act, or allow inspection of or access to any book, record, writing, return or other document obtained by or on behalf of the Minister for the purposes of this Act, to or by any person otherwise legally entitled thereto.

## Section 241

Exception

(5) Notwithstanding anything in this section, the Minister may permit a copy of any book, record, writing, return or other document obtained by him or on his behalf for the purposes of this Act to be given to the person from whom such book, record, writing, return or other document was obtained or the legal representative of such person, or to the agent of such person or of such legal representative authorized in writing in that behalf.

(5). Subsection 133(5)

Appeal  
from  
order or  
direction

(6) An order or direction made in the course of or in connection with any legal proceedings requiring an official or authorized person to give evidence relating to any information or produce any book, record, writing, return or other document obtained by or on behalf of the Minister for the purposes of this Act, may, by notice served upon all interested parties, be appealed forthwith by the Minister or by the person against whom the order or direction is made to

(6). Subsection 133(5a)

(a) the court of appeal of the province in which the order or direction is made, in the case of an order or direction made by a court or other tribunal established by or pursuant to the laws of the province, whether or not such court or tribunal is exercising a jurisdiction conferred by the laws of Canada; or

(b) the Federal Court of Appeal, in the case of an order or direction made by a court or other tribunal established by or pursuant to the laws of Canada.

Disposition  
of appeal

(7) The court to which an appeal is taken pursuant to subsection (6) may allow the appeal and quash the order or direction appealed from or dismiss the appeal, and the rules of practice and procedure from time to time governing appeals to the courts shall apply, *mutatis mutandis*, to an appeal instituted pursuant to subsection (6).

(7). Subsection 133(5b)

## Section 241

Stay of  
order or  
direction

(8) An appeal instituted pursuant to subsection (6) shall stay the operation of the order or direction appealed from until judgment is pronounced.

(8). Subsection 133(5c)

Offence

(9) Every one who, being an official or authorized person, contravenes subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding 2 months, or to both such fine and imprisonment.

(9). Subsection 133(6)

Definitions

(10) In this section,

(10). Subsection 133(7)

"Official"

(a) "official" means any person employed in or occupying a position of responsibility in the service of Her Majesty, or any person formerly so employed or formerly occupying a position therein;

"Authorized  
person"

(b) "authorized person" means any person engaged or employed, or formerly engaged or employed, by or on behalf of Her Majesty to assist in carrying out the purposes and provisions of this Act; and

"Court of  
appeal"

(c) "court of appeal" has the meaning assigned by paragraphs (a) to (j) of the definition "court of appeal" in section 2 of the *Criminal Code*.

Officers,  
etc., of  
corporations

242. Where a corporation is guilty of an offence under this Act, an officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in, or participated in, the commission of the offence is a party to and guilty of the offence and is liable on conviction to the punishment provided for the offence whether or not the corporation has been prosecuted or convicted.

242. Section 134

Power to  
decrease  
punish-  
ment

243. Notwithstanding the *Criminal Code* or any other statute or law in force on the 30th day of June, 1948, the court has in any prosecution or proceeding under this Act, no power to impose less than the minimum fine or imprisonment fixed by this Act and the court has no power to suspend sentence.

243. Section 135



*Procedure and Evidence.*

Informa-  
tion or  
complaint

244. (1) An information or complaint under this Act may be laid or made by any officer of the Department of National Revenue, by a member of the Royal Canadian Mounted Police or by any person thereunto authorized by the Minister and, where an information or complaint purports to have been laid or made under this Act, it shall be deemed to have been laid or made by a person thereunto authorized by the Minister and shall not be called in question for lack of authority of the informant or complainant except by the Minister or by some person acting for him or Her Majesty.

244. (1). Subsection 136(1)

Two or  
more  
offences

(2) An information or complaint in respect of an offence under this Act may be for one or more offences and no information, complaint, warrant, conviction or other proceeding in a prosecution under this Act is objectionable or insufficient by reason of the fact that it relates to two or more offences.

(2). Subsection 136(2)

Territorial  
jurisdiction

(3) An information or complaint in respect of an offence under this Act may be heard, tried or determined by any court, judge or justice if the accused is resident, carrying on business, found or apprehended or is in custody within its or his territorial jurisdiction although the matter of the information or complaint did not arise within its or his territorial jurisdiction.

(3). Subsection 136(3), modified

Limitation  
of prosecu-  
tions

(4) An information or complaint under the provisions of the *Criminal Code* relating to summary convictions, in respect of an offence under this Act, may be laid or made on or before a day 5 years from the time when the matter of the information or complaint arose or within one year from the day on which evidence, sufficient in the opinion of the Minister to justify a prosecution for the offence, came to his knowledge, and the Minister's certificate as to the day on which such evidence came to his knowledge is conclusive evidence thereof.

(4). Subsection 136(4)

Proof of  
service  
by mail

(5) Where, by this Act or a regulation, provision is made for sending by mail a request for information, notice or demand, an affidavit of an officer of the Department of National Revenue sworn before a commissioner or other person authorized to take affidavits setting out that he has charge of the appropriate records, that he has knowledge of the facts in the particular case, that such a request, notice or demand was sent by registered letter on a named day to the person to whom it was addressed (indicating such address) and that he identifies as exhibits attached to the affidavit the post office certificate of registration of the letter or a true copy of the relevant portion thereof and a true copy of the request, notice or demand shall be received as *prima facie* evidence of the sending and of the request, notice or demand.

(5). Subsection 136(5)

Proof of  
personal  
service

(6) Where, by this Act or a regulation, provision is made for personal service of a request for information, notice or demand, an affidavit of an officer of the Department of National Revenue sworn before a commissioner or other person authorized to take affidavits setting out that he has charge of the appropriate records, that he has knowledge of the facts in the particular case, that such a request, notice or demand was served personally on a named day on the person to whom it was directed and that he identifies as an exhibit attached to the affidavit a true copy of the request, notice or demand shall be received as *prima facie* evidence of the personal service and of the request, notice or demand.

(6). Subsection 136(5a)

Proof of  
failure to  
comply

(7) Where, by this Act or a regulation, a person is required to make a return, statement, answer or certificate, an affidavit of an officer of the Department of National Revenue, sworn before a commissioner or other person authorized to take affidavits, setting out that he has charge of the appropriate records and that after a careful examination and search of the records he has been unable to find in a given case that the return, statement, answer or certificate, as the case may be, has been made

(7). Subsection 136(6)

by such person, shall be received as *prima facie* evidence that in such case that person did not make the return, statement, answer or certificate, as the case may be.

Proof of  
time of  
compliance

(8) Where, by this Act or a regulation, a person is required to make a return, statement, answer or certificate, an affidavit of an officer of the Department of National Revenue, sworn before a commissioner or other person authorized to take affidavits, setting out that he has charge of the appropriate records and that after careful examination of such records he has found that the return, statement, answer or certificate was filed or made on a particular day, shall be received as *prima facie* evidence that it was filed or made on that day and not prior thereto.

(8). Subsection 136(7)

Proof of  
documents

(9) An affidavit of an officer of the Department of National Revenue, sworn before a commissioner or other person authorized to take affidavits, setting out that he has charge of the appropriate records and that a document annexed thereto is a document or true copy of a document made by or on behalf of the Minister or some person exercising the powers of the Minister or by or on behalf of a taxpayer, shall be received as *prima facie* evidence of the nature and contents of the document and shall be admissible in evidence and have the same probative force as the original document would have if it had been proven in the ordinary way.

(9). Subsection 136(8)

Proof of  
no appeal

(10) An affidavit of an officer of the Department of National Revenue, sworn before a commissioner or other person authorized to take affidavits, setting out that he has charge of the appropriate records and has knowledge of the practice of the Department and that an examination of the records shows that a notice of assessment for a particular taxation year was mailed or otherwise communicated to a taxpayer on a particular day pursuant to this Act and that, after careful examination and search of the records, he has been unable to find that a notice of objection or of appeal from the

(10). Subsection 136(9)

## Subsection 244(10)

assessment was received within the time allowed therefor, shall be received as *prima facie* evidence of the statements contained therein.

Presump-  
tion

(11) Where evidence is offered under this section by an affidavit from which it appears that the person making the affidavit is an officer of the Department of National Revenue, it is not necessary to prove his signature or that he is such an officer nor is it necessary to prove the signature or official character of the person before whom the affidavit was sworn.

(11). Subsection 136(10)

Judicial  
notice

(12) Judicial notice shall be taken of all orders or regulations made under this Act without such orders or regulations being specially pleaded or proven.

(12). Subsection 136(11)

Proof of  
documents

(13) Every document purporting to be an order, direction, demand, notice, certificate, requirement, decision, assessment, discharge of mortgage or other document purporting to have been executed under, or in the course of administration or enforcement of, this Act over the name in writing of the Minister, the Deputy Minister of National Revenue for Taxation, or an officer authorized by regulation to exercise powers or perform duties of the Minister under this Act, shall be deemed to be a document signed, made and issued by the Minister, the Deputy Minister or the officer unless it has been called in question by the Minister or by some person acting for him or Her Majesty.

(13). Subsection 136(12)

Mailing  
date

(14) For the purposes of this Act, the day of mailing of any notice of assessment or notification described in subsection 152(4) shall, in the absence of any evidence to the contrary, be deemed to be the day appearing from such notice or notification to be the date thereof unless called in question by the Minister or by some person acting for him or Her Majesty.

(14). Subsection 136(12a)



## Section 244

|                                |  |                                    |
|--------------------------------|--|------------------------------------|
| Date when assessment made      | (15) Where any notice of an assessment has been sent by the Minister as required by this Act, the assessment shall be deemed to have been made on the day of mailing of the notice of the assessment.  | (15). Subsection 136(12b)          |
| Forms prescribed or authorized | (16) Every form purporting to be a form prescribed or authorized by the Minister shall be deemed to be a form prescribed by order of the Minister under this Act unless called in question by the Minister or some person acting for him or Her Majesty.   | (16). Subsection 136(13)           |
| Proof of return                | (17) In any prosecution for an offence under this Act, the production of a return, certificate, statement or answer required by or under this Act or a regulation, purporting to have been filed or delivered by or on behalf of the person charged with the offence or to have been made or signed by him or on his behalf shall be received as <i>prima facie</i> evidence that such return, certificate, statement or answer was filed or delivered by or on behalf of that person or was made or signed by him or on his behalf. | (17). Subsection 136(14)           |
| Idem                           | (18) In any proceedings under Division J of Part I, the production of a return, certificate, statement or answer required by or under this Act or a regulation, purporting to have been filed or delivered by or on behalf of the taxpayer or to have been made or signed by him or on his behalf shall be received as <i>prima facie</i> evidence that such return, certificate, statement or answer was filed or delivered by or on behalf of that person or was made or signed by him or on his behalf.                           | (18). Subsection 136(15), modified |
| Idem                           | (19) In any prosecution for an offence under this Act an affidavit of an officer of the Department of National Revenue, sworn before a commissioner or other person authorized to take affidavits, setting out that he has charge of the appropriate records and that an examination of the records shows that an amount required under this Act to be remitted to the Receiver General of Canada on account of tax for a year has not been received by the Receiver   | (19). Subsection 136(16)           |

General of Canada, shall be received as *prima facie* evidence of the statements contained therein.

## PART XVI

### TAX EVASION

Artificial  
transactions

245. (1) In computing income for the purposes of this Act, no deduction may be made in respect of a disbursement or expense made or incurred in respect of a transaction or operation that, if allowed, would unduly or artificially reduce the income.

245. (1). Subsection 137(1), modified

Indirect  
payments  
or transfers

(2) Where the result of one or more sales, exchanges, declarations of trust, or other transactions of any kind whatever is that a person confers a benefit on a taxpayer, that person shall be deemed to have made a payment to the taxpayer equal to the amount of the benefit conferred notwithstanding the form or legal effect of the transactions or that one or more other persons were also parties thereto; and, whether or not there was an intention to avoid or evade taxes under this Act, the payment shall, depending upon the circumstances, be

(2). Subsection 137(2)

(a) included in computing the taxpayer's income for the purpose of Part I, or

(b) deemed to be a payment to a non-resident person to which Part XIII applies.

Arm's  
length

(3) Where it is established that a sale, exchange or other transaction was entered into by persons dealing at arm's length, *bona fide* and not pursuant to, or as part of, any other transaction and not to effect payment, in whole or in part, of an existing or future obligation, no party thereto shall be regarded, for the purpose of this section, as having conferred a benefit on a party with whom he was so dealing.

(3). Subsection 137(3)

Tax  
avoidance

246. (1) Where the Treasury Board has decided that one of the main purposes for a transaction or transactions effected before or after the coming into force of this Act was improper avoidance or reduction of taxes that might otherwise have become payable under this Act, the *Income War Tax Act*, or *The Excess Profits Tax Act, 1940*, the Treasury Board may give such directions as it considers appropriate to counteract the avoidance or reduction.

246. (1). Subsection 138(1)

Idem

(2) A direction under this section may relate to taxes to be paid under one or more Parts of this Act, the *Income War Tax Act* or *The Excess Profits Tax Act, 1940*, by one or more persons for one or more taxation years.

(2). Subsection 138(2)

Idem

(3) Where a direction has been given under this section, tax shall be collected, or assessed or reassessed and collected, notwithstanding any other provision of this or any other Act, in accordance therewith.

(3). Subsection 138(3)

Idem

(4) The Federal Court of Canada has exclusive original jurisdiction in all actions in respect of claims for failure to pay or collect tax under Part XIII imposed pursuant to this section.

(4). Subsection 138(4)

Idem

(5) On an appeal from an assessment made pursuant to a direction under this section or in an action for tax under Part XIII imposed pursuant to this section, the Federal Court may

(5). Subsection 138(5)

(a) confirm the direction given under this section,

(b) vacate a direction given under this section, if it determines that none of the main purposes of the transaction or transactions was the improper avoidance or reduction of taxes, or

(c) vary the direction given by the Treasury Board and refer the matter back to the Minister for collection, or reassessment and collection.

## Section 246

(6) An avoidance or reduction of taxes may be regarded as improper for the purpose of this section although it is not illegal.

(6). Subsection 138(6)

Dividend  
stripping

247. (1) Where a taxpayer has received an amount in a taxation year,

(a) as consideration for the sale or other disposition of any shares of a corporation or of any interest in such shares,

(b) in consequence of a corporation having  
 (i) redeemed or acquired any of its shares or reduced its capital stock, or  
 (ii) converted any of its shares into shares of another class or into an obligation of the corporation, or

(c) otherwise, as a payment that would, but for this section, be exempt income,

which amount was received by the taxpayer as part of a transaction effected or to be effected after June 13, 1963 or as part of a series of transactions each of which was or is to be effected after that day, one of the purposes of which, in the opinion of the Minister, was or is to effect a substantial reduction of, or disappearance of, the assets of a corporation in such a manner that the whole or any part of any tax that might otherwise have been or become payable under this Act in consequence of any distribution of income of a corporation has been or will be avoided, the amount so received by the taxpayer or such part thereof as may be specified by the Minister shall, if the Minister so directs,

(d) be included in computing the income of the taxpayer for that taxation year, and

(e) in the case of a taxpayer who is an individual, be deemed to have been received by him as a taxable dividend.

247. (1). Subsection 138A(1), modified



## Section 247

Associated  
corpora-  
tions

(2) Where, in the case of two or more corporations, the Minister is satisfied

(a) that the separate existence of those corporations in a taxation year is not solely for the purpose of carrying out the business of those corporations in the most effective manner, and

(b) that one of the main reasons for such separate existence in the year is to reduce the amount of taxes that would otherwise be payable under this Act

the two or more corporations shall, if the Minister so directs, be deemed to be associated with each other in the year.

(2). Subsection 138A(2)

Appeal

(3) On an appeal from an assessment made pursuant to a direction under this section, the Tax Review Board or the Federal Court may

(a) confirm the direction;

(b) vacate the direction if

(i) in the case of a direction under subsection (1), it determines that none of the purposes of the transaction or series of transactions referred to in subsection (1) was or is to effect a substantial reduction of, or disappearance of, the assets of a corporation in such a manner that the whole or any part of any tax that might otherwise have been or become payable under this Act in consequence of any distribution of income of a corporation has been or will be avoided, or

(ii) in the case of a direction under subsection (2), it determines that none of the main reasons for the separate existence of the two or more corporations is to reduce the amount of tax that would otherwise be payable under this Act; or

(c) vary the direction and refer the matter back to the Minister for reassessment.

(3). Subsection 138A(3)

## PART XVII

## INTERPRETATION

|  |   |                                       |
|--|---|---------------------------------------|
| Definitions  | 248. (1) In this Act,   | 248. (1). Subsection 139(1), modified |
| “adjusted cost base”<br>« <i>prix . . .</i> »  | “adjusted cost base” has the meaning assigned by section 54;  | New                                   |
| “allowable capital loss”<br>« <i>perte en capital déductible</i> »                     | “allowable capital loss” has the meaning assigned by section 38;  | New                                   |
| “amount”<br>« <i>montant</i> »   | “amount” means money, rights or things expressed in terms of the amount of money or the value in terms of money of the right or thing, except that the “amount” of any stock dividend paid by a corporation is the amount of the increase in the paid-up capital of the corporation by virtue of the payment of the dividend; | Paragraph 139(1)(a), modified         |
| “annuity”<br>« <i>rente</i> »  | “annuity” includes an amount payable on a periodic basis whether payable at intervals longer or shorter than a year and whether payable under a contract, will or trust or otherwise;   | Paragraph 139(1)(b)                   |
| “assessment”<br>« <i>cotisation</i> »  | “assessment” includes a reassessment;   | Paragraph 139(1)(d)                   |
| “benefit under a deferred profit sharing plan”<br>« <i>prestation en vertu . . .</i> » | “benefit under a deferred profit sharing plan” received by a taxpayer in a taxation year means the aggregate of each amount received by the taxpayer in the year from a trustee under the plan minus any amounts deductible under subsections 147(11) and (12) in computing the income of the taxpayer for the year;          | Paragraph 139(1)(da)                  |
| “business”<br>« <i>entreprise ou . . .</i> »   | “business” includes a profession, calling, trade, manufacture or undertaking of any kind whatever and includes an adventure or concern in the nature of trade but does not include an office or employment;   | Paragraph 139(1)(e)                   |

## Subsection 248(1)

|   |  |                     |
|---|--|---------------------|
| “Canadian-controlled private corporation”<br>« <i>corporation privée dont...</i> »    | “Canadian-controlled private corporation” has the meaning assigned by subsection 125(6);   | New                 |
| “Canadian corporation”<br>« <i>corporation canadienne</i> »                           | “Canadian corporation” has the meaning assigned by subsection 89(1);   | New                 |
| “capital dividend”<br>« <i>dividende en capital</i> »                                 | “capital dividend” has the meaning assigned by subsection 83(2);   | New                 |
| “capital gain”<br>« <i>gain...</i> »  | “capital gain” for a taxation year from the disposition of any property has the meaning assigned by section 39;  | New                 |
| “capital interest” of a taxpayer in a trust<br>« <i>participation au capital...</i> » | “capital interest” of a taxpayer in a trust has the meaning assigned by subsection 108(1);   | New                 |
| “capital loss”<br>« <i>perte en capital</i> »   | “capital loss” for a taxation year from the disposition of any property has the meaning assigned by section 39;  | New                 |
| “capital property”<br>« <i>bien en immobilisation</i> »                               | “capital property” has the meaning assigned by section 54;   | New                 |
| “common share”<br>« <i>action ordinaire</i> »   | “common share” means a share the holder of which is not precluded upon the reduction or redemption of the capital stock from participating in the assets of the corporation beyond the amount paid up thereon plus a fixed premium and a defined rate of dividend;   | Paragraph 139(1)(g) |
| “corporation”<br>« <i>corporation</i> »   | “corporation” includes an incorporated company and a “corporation incorporated in Canada” includes a corporation incorporated in any part of Canada before or after it became part of Canada;  | Paragraph 139(1)(h) |
| “cost amount”<br>« <i>coût</i> »...   | “cost amount” to a taxpayer of any property at any time means, except as expressly otherwise provided in this Act,<br>(a) where the property was depreciable property of the taxpayer of a prescribed class, that proportion of the undepreciated capital cost to him of property of that class at that time that the capital cost to him of | New                 |

the property is of the capital cost to him of all property of that class,

(b) where the property was capital property (other than depreciable property) of the taxpayer, its adjusted cost base to him at that time,

(c) where the property was property described in an inventory of the taxpayer, its value at that time as determined for the purpose of computing his income,

(d) where the property was eligible capital property of the taxpayer in respect of a business, the cumulative eligible capital of the taxpayer in respect of the business at that time,

(e) where the property was a debt owing to the taxpayer (other than a debt the amount of which was deducted under paragraph 20(1)(p) in computing the taxpayer's income for a taxation year ending before that time) or any other right of the taxpayer to receive an amount, the amount of the debt or other right that was outstanding at that time, and

(f) in any other case, the cost to the taxpayer of the property as determined for the purpose of computing his income;

“cumulative eligible capital” has the meaning assigned by subsection 14(5);

New

“death benefit” for a taxation year means the amount or amounts received in the year by any person upon or after the death of an employee in recognition of his service in an office or employment minus

Paragraph 139(1)(j)

(a) where the amount or amounts were received by his widow, the lesser of

(i) the amount or amounts so received, and

(ii) an amount equal to the employee's salary, wages and other remuneration for the last year in that office or employment for which he received any such remuneration or \$10,000, whichever is the lesser, minus amounts deductible in computing for previous years the death benefits received in respect of his service in that office or employment, or

“cumulative eligible capital”  
«montant admissible...»

“death benefit”  
«prestation consecutive...»



## Subsection 248(1)

(b) where the employee died without leaving a widow or where no amount is deductible in computing for any year the death benefits received by his widow in respect of his service in that or any other office or employment, the lesser of

- (i) the amount or amounts so received, and
  - (ii) that proportion of any amount determined as provided in subparagraph (a)(ii) that the amount or amounts so received are of the aggregate of all amounts received in the year, by each of the persons who received any such amount or amounts, upon or after the death of the employee in recognition of his service in that office or employment,
- except that where any death benefits were received in the year in respect of the services of an employee in more than one office or employment,

(c) this definition shall be read as requiring a separate determination of the death benefits received in respect of his service in each particular office or employment, and

(d) there shall be substituted for the amount determined under subparagraph (a)(ii) or (b)(ii), as the case may be, in respect of each particular office or employment an amount equal to that proportion of the amount otherwise determined thereunder that the employee's salary, wages and other remuneration for the last year in that particular office or employment for which he received any such remuneration is of the aggregate of his said remuneration for the last years in each of the said offices or employments from which he received any such remuneration;

|   |  |            |
|---|--|------------|
| <p>"deferred profit sharing plan"<br/>«régime de participation diff.<br/>...»</p> | <p>"deferred profit sharing plan" has the meaning assigned by subsection 147(1);</p> | <p>New</p> |
| <p>"depreciable property"<br/>«bien amortissable»</p>                             | <p>"depreciable property" has the meaning assigned by subsection 13(21);</p>         | <p>New</p> |
| <p>"designated surplus"<br/>«surplus désigné»</p>                                 | <p>"designated surplus" has the meaning assigned by Part VII;</p>                    | <p>New</p> |

## Subsection 248(1)

|   |  |                               |
|---|--|-------------------------------|
| “dividend”<br>« <i>dividende</i> »  | “dividend” includes a stock dividend, other than a stock dividend that was paid before 1972;   | Paragraph 139(1)(k), modified |
| “eligible capital expenditure”<br>« <i>montant de . . .</i> »                   | “eligible capital expenditure” has the meaning assigned by subsection 14(5);   | New                           |
| “eligible capital property”<br>« <i>bien en immobilisation adm.</i> »           | “eligible capital property” has the meaning assigned by section 54;  | New                           |
| “employed”<br>« <i>être employé</i> »   | “employed” means performing the duties of an office or employment;   | Paragraph 139(1)(l)           |
| “employee”<br>« <i>employé</i> »  | “employee” includes officer;   | Paragraph 139(1)(la)          |
| “employees profit sharing plan”<br>« <i>régime de participation des . . .</i> » | “employees profit sharing plan” has the meaning assigned by subsection 144(1);   | New                           |
| “employer”<br>« <i>employeur</i> »  | “employer”, in relation to an officer, means the person from whom the officer receives his remuneration;   | Paragraph 139(1)(lb)          |
| “employment”<br>« <i>emploi</i> »   | “employment” means the position of an individual in the service of some other person (including Her Majesty or a foreign state or sovereign) and “servant” or “employee” means a person holding such a position;   | Paragraph 139(1)(m)           |
| “estate”<br>« <i>succes- sion</i> »   | “estate” has the meaning assigned by subsection 104(1);  | Paragraph 139(1)(n)           |
| “exempt income”<br>« <i>revenu exonéré</i> »                                    | “exempt income” means money or property received or acquired by a person in such circumstances that it is, by reason of any provision in Part I, not included in computing his income, but for greater certainty does not include a dividend on a share; | Paragraph 139(1)(o), modified |

## Subsection 248(1)

|   |   |                      |
|---|---|----------------------|
| "farming"<br>«agriculture»                        | "farming" includes tillage of the soil, livestock raising or exhibiting, maintaining of horses for racing, raising of poultry, fur farming, dairy farming, fruit growing and the keeping of bees, but does not include an office or employment under a person engaged in the business of farming;   | Paragraph 139(1)(p)  |
| "fishing"<br>«pêche»                              | "fishing" includes fishing for or catching shell fish, crustaceans and marine animals but does not include an office or employment under a person engaged in the business of fishing;   | Paragraph 139(1)(q)  |
| "fiscal period"<br>«exercice...»                  | "fiscal period" means the period for which the accounts of the business of the taxpayer have been ordinarily made up and accepted for purposes of assessment under this Act and, in the absence of an established practice, the fiscal period is that adopted by the taxpayer (but no fiscal period may exceed (a) in the case of a corporation, 53 weeks, and (b) in the case of any other taxpayer, 12 months, and no change in a usual and accepted fiscal period may be made for the purposes of this Act without the concurrence of the Minister); | Paragraph 139(1)(r)  |
| "foreign affiliate"<br>«corporation étrangère...» | "foreign affiliate" has the meaning assigned by subsection 95(1);   | New                  |
| "gross revenue"<br>«revenu brut»                  | "gross revenue" means the aggregate of all amounts received in a taxation year or receivable in the year (depending on the method regularly followed by the taxpayer in computing his profit) otherwise than as or on account of capital;   | Paragraph 139(1)(sz) |
| "group term life insurance policy"<br>«police...» | "group term life insurance policy", with respect to a taxpayer, means a group life insurance policy under which no amount is payable as a result of the contributions made to or under the policy by the employer of the taxpayer except in the event of the death or disability of the taxpayer;   | Paragraph 139(1)(sb) |

## Subsection 248(1)

|   |  |                      |
|---|--|----------------------|
| “income-averaging annuity contract”<br>« <i>contrat...</i> »                        | “income-averaging annuity contract” has the meaning assigned by subsection 61(4);  | New                  |
| “income bond”<br>« <i>obligation...</i> »   | “income bond” or “income debenture” means a bond or debenture in respect of which interest or dividends are payable only when the debtor company has made a profit before taking into account the interest or dividend obligation;   | Paragraph 139(1)(t)  |
| “income interest” of a taxpayer in a trust<br>« <i>participation au revenu...</i> » | “income interest” of a taxpayer in a trust has the meaning assigned by subsection 108(1);  | New                  |
| “individual”<br>« <i>particulier</i> »  | “individual” means a person other than a corporation;  | Paragraph 139(1)(u)  |
| “insurance corporation” or “insurer”<br>« <i>corp. d'ass.</i> »                     | “insurance corporation” or “insurer” means a corporation that carries on an insurance business;  | Paragraph 139(1)(ua) |
| “ <i>inter trust vivos</i> ”<br>« <i>fiducie non...</i> »                           | “ <i>inter vivos</i> trust” has the meaning assigned by subsection 108(1);   | New                  |
| “inventory”<br>« <i>inventaire</i> »  | “inventory” means a description of property the cost or value of which is relevant in computing a taxpayer’s income from a business for a taxation year;   | Paragraph 139(1)(w)  |
| “investment corporation”<br>« <i>corp. de place</i> »                               | “investment corporation” has the meaning assigned by subsection 130(3);  | New                  |
| “life insurance business”<br>« <i>commerce...</i> »                                 | “life insurance business” includes<br>(a) an annuities business, and<br>(b) the business of issuing contracts all or any part of the issuer’s reserves for which vary in amount depending upon the fair market value of a specified group of assets, carried on by a life insurance corporation or a life insurer; | Paragraph 139(1)(wa) |



|  |   |                             |
|--|---|-----------------------------|
| <p>“life insurance corporation” or “life insurer”<br/>«corp. d’ass.-vie»</p> | <p>“life insurance corporation” or “life insurer” means a corporation that carries on a life insurance business that is not a business described in paragraph (a) or (b) of the definition “life insurance business” whether or not it also carries on a business described in either of those paragraphs;</p>  | <p>Paragraph 139(1)(wb)</p> |
| <p>“listed personal property”<br/>«biens per. . . .»</p>                     | <p>“listed personal property” has the meaning assigned by section 54;</p>   | <p>New</p>                  |
| <p>“minerals”<br/>«minéraux»</p>   | <p>“minerals” do not include petroleum, natural gas or related hydrocarbons (except coal or bituminous sands);</p>  | <p>New</p>                  |
| <p>“mineral resource”<br/>«matières . . . »</p>                              | <p>“mineral resource” means</p> <ul style="list-style-type: none"> <li>(a) a base or precious metal deposit,</li> <li>(b) a coal deposit,</li> <li>(c) a bituminous sands deposit, or</li> <li>(d) a mineral deposit in respect of which             <ul style="list-style-type: none"> <li>(i) the Minister of Energy, Mines and Resources has certified that the principal mineral extracted is an industrial mineral contained in a non-bedded deposit,</li> <li>(ii) the principal mineral extracted is sylvite,</li> <li>(iii) the principal mineral extracted is halite that is extracted by underground mining and not by operating a brine well,</li> <li>(iv) the principal mineral extracted is extracted from sandstone or quartzite, or silica that is</li> </ul> </li> </ul> | <p>New</p>                  |

(v) the principal mineral extracted is gypsum;

|  |  |                      |
|--|--|----------------------|
| “Minister”<br>«Ministre»   | “Minister” means the Minister of National Revenue;   | Paragraph 139(1)(y)  |
| “mutual fund corporation”<br>«corp. de fonds . . .»                          | “mutual fund corporation” has the meaning assigned by subsection 131(8);                   | New                  |
| “mutual fund trust”<br>«fiducie de fonds . . .»                              | “mutual fund trust” has the meaning assigned by subsection 132(6);                         | New                  |
| “net capital loss”<br>«perte nette . . .»                                    | “net capital loss” has the meaning assigned by subsection 111(8);                          | New                  |
| “non-capital loss”<br>«perte autre . . .»                                    | “non-capital loss” has the meaning assigned by subsection 111(8);                          | New                  |
| “non-resident”<br>«non-résident»   | “non-resident” means not resident in Canada;   | Paragraph 139(1)(z)  |
| “non-resident-owned investment corporation”<br>«corp. de place. poss. . . .» | “non-resident-owned investment corporation” has the meaning assigned by subsection 133(8); | Paragraph 139(1)(aa) |

## Subsection 248(1)

Paragraph 139(1)(ab), modified

“office”  
«charge»

“office” means the position of an individual entitling him to a fixed or ascertainable stipend or remuneration and includes a judicial office, the office of a Minister of the Crown, the office of a member of the Senate or House of Commons of Canada, a member of a legislative assembly or a member of a legislative or executive council and any other office, the incumbent of which is elected by popular vote or is elected or appointed in a representative capacity and also includes the position of a corporation director; and “officer” means a person holding such an office;

“paid-up  
capital  
deficiency”  
«insuffi-  
sance . . .»

“paid-up capital deficiency” has the meaning assigned by subsection 89(1);

New

“person”  
«personne»

“person”, or any word or expression descriptive of a person, includes any body corporate and politic, and the heirs, executors, administrators or other legal representatives of such person, according to the law of that part of Canada to which the context extends;

Paragraph 139(1)(ac)

## Subsection 248(1)

Paragraph 139(1)(ae), modified

“personal  
or living  
expenses”  
«frais . . .»

“personal or living expenses” includes

(a) the expenses of properties maintained by any person for the use or benefit of the taxpayer or any person connected with the taxpayer by blood relationship, marriage or adoption, and not maintained in connection with a business carried on for profit or with a reasonable expectation of profit,

(b) the expenses, premiums or other costs of a policy of insurance, annuity contract or other like contract if the proceeds of the policy or contract are payable to or for the benefit of the taxpayer or a person connected with him by blood relationship, marriage or adoption, and

(c) expenses of properties maintained by an estate or trust for the benefit of the taxpayer as one of the beneficiaries;

“personal-use  
property”  
«biens  
à . . .»

“personal-use property” has the meaning assigned by section 54;

New

“preferred  
share”  
«actions  
privilegiées»

“preferred share” means a share other than a common share;

New

“pre-  
scribed”  
«prescrit»

“prescribed”, in the case of a form or the information to be given on a form, means prescribed by order of the Minister, and, in any other case, means prescribed by regulation;

Paragraph 139(1)(af)

“principal  
amount”  
«principal»

“principal amount” in relation to any obligation means the amount that, under the terms of the obligation or any agreement relating thereto, is the maximum amount or maximum aggregate amount, as the case may be, payable on account of the obligation by the issuer thereof, otherwise than as or on account of interest or as or on account of any premium payable by the issuer conditional upon the exercise by the issuer of a right to redeem the obligation before the maturity thereof;

Subsection 7(3)

“private  
corpora-  
tion”  
«corp.  
privée»

“private corporation” has the meaning assigned by subsection 89(1);

New



## Subsection 248(1)

|  |  |                        |
|--|--|------------------------|
| “private health services plan”<br>«régime privé...»                  | “private health services plan” has the meaning assigned by subsection 110(8);  | New                    |
| “property”<br>«biens»  | “property” means property of any kind whatever whether real or personal or corporeal or incorporeal and, without restricting the generality of the foregoing, includes a right of any kind whatever, a share or a chose in action;                           | Paragraph 139(1)(ag)   |
| “province”<br>«province»   | “province” means a province of Canada;   | Paragraph 139(1)(ah)   |
|  |  | New                    |
| “public corporation”<br>«corp. publique»                             | “public corporation” has the meaning assigned by subsection 89(1);   | New                    |
| “registered Canadian amateur athletic association”<br>«assoc. . . .» | “registered Canadian amateur athletic association” has the meaning assigned by subsection 110(8);  | New                    |
| “registered Canadian charitable organization”<br>«œuvre . . .»       | “registered Canadian charitable organization” has the meaning assigned by subsection 110(8);   | New                    |
| “registered pension fund or plan”<br>«caisse . . .»                  | “registered pension fund or plan” means an employees’ superannuation or pension fund or plan accepted by the Minister for registration for the purposes of this Act in respect of its constitution and operations for the taxation year under consideration; | Paragraph 139(1)(ahh)  |
| “registered retirement savings plan”<br>«régime enreg. . . .»        | “registered retirement savings plan” has the meaning assigned by subsection 146(1);  | Paragraph 139(1)(ahhh) |

## Subsection 248(1)

|  |  |                                |
|--|--|--------------------------------|
| “registered supplementary unemployment benefit plan”<br>«régime enregistré de . . .» | “registered supplementary unemployment benefit plan” has the meaning assigned by subsection 145(1);  | New                            |
| “regulation”<br>«règlement»  | “regulation” means a regulation made by the Governor in Council under this Act;  | Paragraph 139(1)(ai)           |
| “restricted farm loss”<br>«perte agricole . . .»                                     | “restricted farm loss” has the meaning assigned by subsection 31(1);   | New                            |
| “retirement savings plan”<br>«régime d’épargne . . .»                                | “retirement savings plan” has the meaning assigned by subsection 146(1);   | New                            |
| “retiring allowance”<br>«allocation . . .»   | “retiring allowance” means an amount received upon or after retirement from an office or employment in recognition of long service or in respect of loss of office or employment (other than a superannuation or pension benefit), whether the recipient is the officer or employee or a dependant, relation or legal representative;  | Paragraph 139(1)(aj)           |
| “salary or wages”<br>«traitement . . .»  | “salary or wages” except in section 5 and the definition “death benefit” in this subsection, means the income of a taxpayer from an office or employment as computed under subdivision a of Division B of Part I and includes all fees received for services not rendered in the course of the taxpayer’s business but does not include superannuation or pension benefits or retiring allowances; | Paragraph 139(1)(ak), modified |
| “self-contained domestic establishment”<br>«établissement . . .»                     | “self-contained domestic establishment” means a dwelling house, apartment or other similar place of residence in which place a person as a general rule sleeps and eats;   | Paragraph 139(1)(al)           |

## Subsection 248(1)

|   |   |                                |
|---|---|--------------------------------|
| “separation agreement”<br>«accord . . . »                                   | “separation agreement” includes an agreement by which a person agrees to make payments on a periodic basis for the maintenance of a former spouse, children of the marriage, or both the former spouse and children of the marriage, after the marriage has been dissolved whether the agreement was made before or after the marriage was dissolved;   | Paragraph 139(1)(am), modified |
| “share”<br>«action»   | “share” means a share of the capital stock of a corporation;  | Paragraph 139(1)(an)           |
| “shareholder”<br>«actionnaire»  | “shareholder” includes a member or other person entitled to receive payment of a dividend;  | Paragraph 139(1)(ao)           |
| “subsidiary wholly-owned corporation”<br>«corporation filiale . . . »       | “subsidiary wholly-owned corporation” means a corporation all the issued share capital of which (except directors’ qualifying shares) belongs to the corporation to which it is subsidiary and “subsidiary controlled corporation” means a corporation more than 50% of the issued share capital of which (having full voting rights under all circumstances) belongs to the corporation to which it is subsidiary;   | Paragraph 139(1)(aq)           |
| “superannuation or pension benefit”<br>«prestation de retraite . . . »      | “superannuation or pension benefit” includes any amount received out of or under a superannuation or pension fund or plan and without restricting the generality of the foregoing includes any payment made to a beneficiary under the fund or plan or to an employer or former employer of the beneficiary thereunder,<br>(a) in accordance with the terms of the fund or plan,<br>(b) resulting from an amendment to or modification of the fund or plan, or<br>(c) resulting from the termination of the fund or plan; | Paragraph 139(1)(ar)           |
| “supplementary unemployment benefit plan”<br>«régime de prestations . . . » | “supplementary unemployment benefit plan” has the meaning assigned by subsection 145(1);  | New                            |

## Subsection 248(1)

|  |  |                      |
|--|--|----------------------|
| “taxable Canadian corporation”<br>« <i>corporation can. imposable</i> »      | “taxable Canadian corporation” has the meaning assigned by subsection 89(1);   | New                  |
| “taxable Canadian property”<br>« <i>bien canadien . . .</i> »                | “taxable Canadian property” has the meaning assigned by subsection 115(1);   | New                  |
| “taxable capital gain”<br>« <i>gains en . . .</i> »                          | “taxable capital gain” has the meaning assigned by section 38;   | New                  |
| “taxable dividend”<br>« <i>dividende imposable</i> »                         | “taxable dividend” has the meaning assigned by subsection 89(1);   | New                  |
| “taxable income”<br>« <i>revenu imposable</i> »                              | “taxable income” has the meaning assigned by subsection 2(2);  | Paragraph 139(1)(as) |
| “taxable income earned in Canada”<br>« <i>revenu imposable gagné . . .</i> » | “taxable income earned in Canada” means a taxpayer’s taxable income earned in Canada determined in accordance with Division D of Part I; | Paragraph 139(1)(at) |
| “taxable net gain”<br>« <i>gain net . . .</i> »                              | “taxable net gain” from dispositions of listed personal property has the meaning assigned by section 41;                                 | New                  |
| “taxpayer”<br>« <i>contribuable</i> »  | “taxpayer” includes any person whether or not liable to pay tax;   | Paragraph 139(1)(av) |
| “tax-paid undistributed surplus on hand”<br>« <i>surplus en main . . .</i> » | “tax-paid undistributed surplus on hand” has the meaning assigned by subsection 89(1);   | New                  |
| “testamentary trust”<br>« <i>fiducie testamentaire</i> »                     | “testamentary trust” has the meaning assigned by subsection 108(1);  | New                  |
| “Treasury Board”<br>« <i>conseil . . .</i> »                                 | “Treasury Board” means the Treasury Board as constituted under the <i>Financial Administration Act</i> ;                                 | Paragraph 139(1)(aw) |



## Subsection 248(1)

Paragraph 139(1)(ax)

“trust”  
«*fiducie*» “trust” has the meaning assigned by subsection 104(1);

“unit trust”  
«*fiducie d’investissement* . . . » “unit trust” has the meaning assigned by subsection 108(2);

New

“1971 capital surplus on hand”  
«*surplus de . . .*» “1971 capital surplus on hand” has the meaning assigned by subsection 89(1);

New

“1971 undistributed income on hand”  
«*revenu en main . . .*» “1971 undistributed income on hand” has the meaning assigned by subsection 196(4).

New

Tax payable (2) In this Act, the tax payable by a taxpayer under any Part of this Act by or under which provision is made for the assessment of tax means the tax payable by him as fixed by assessment or reassessment subject to variation on objection or on appeal, if any, in accordance with the provisions of that Part. (2). Paragraph 139(1)(ba), modified

References to property beneficially owned and to beneficial owner of property (3) In its application in relation to the Province of Quebec, a reference in this Act to any property that is or was beneficially owned by any person shall be read as including a reference to property in relation to which any person has or had the full ownership whether or not the property is or was subject to a servitude, or has or had a right as a usufructuary, a lessee in an emphyteutic lease, an institute in a substitution or a beneficiary in a trust; and a reference in this Act to the beneficial owner of any property shall be read as including a reference to a person who has or had, accordingly as the context requires, such ownership as a right in relation to that property. (3). New

"Taxation  
year"

249. (1) For the purpose of this Act, a "taxation year" is

(a) in the case of a corporation, a fiscal period, and

(b) in the case of an individual, a calendar year,

and when a taxation year is referred to by reference to a calendar year the reference is to the taxation year or years coinciding with, or ending in, that year.

249. (1). Subsection 139(2)

Idem

(2) For the purposes of this Act, a reference to a taxation year ending in another year includes a reference to a taxation year ending coincidentally with that other year.

(2). New

Extended  
meaning  
of  
resident

250. (1) For the purposes of this Act, a person shall, subject to subsection (2), be deemed to have been resident in Canada throughout a taxation year if

(a) he sojourned in Canada in the year for a period of, or periods the aggregate of which is, 183 days or more,

(b) he was, at any time in the year, a member of the Canadian Forces,

(c) he was, at any time in the year,

(i) an ambassador, minister, high commissioner, officer or servant of Canada, or

(ii) an agent-general, officer or servant of a province,

and he was resident in Canada immediately prior to appointment or employment by Canada or the province or received representation allowances in respect of the year,

(d) he performed services, at any time in the year, in a country other than Canada under a prescribed international de-

250. (1). Subsection 139(3)

velopment assistance program of the Government of Canada and he was resident in Canada at any time in the 3 months' period preceding the day on which such services commenced,

(e) he was resident in Canada in any previous year and was, at any time in the year, the spouse of a person described in paragraph (b), (c) or (d) living with that person, or

(f) he was, at any time in the year, a child described in paragraph 109(1)(d) of a person described by paragraph (b), (c) or (d).

Idem (2) Where at any time in a taxation year a person described by paragraph (1)(b), (c) or (d) ceases to be a person so described, he shall be deemed to have been resident in Canada during the part of the year preceding that time and his spouse and child who by virtue of paragraph (1)(e) or (f) would, but for this subsection, be deemed to have been resident in Canada throughout the year, shall be deemed to have been resident in Canada during that part of the year.

(2). Subsection 139(3a)

Ordinarily resident (3) In this Act, a reference to a person resident in Canada includes a person who was at the relevant time ordinarily resident in Canada.

(3). Subsection 139(4)

Corporation deemed resident (4) For the purposes of this Act, a corporation shall be deemed to have been resident in Canada throughout a taxation year if

(4). Subsection 139(4a), modified

(a) in the case of a corporation incorporated after April 26, 1965, it was incorporated in Canada;

*Subsection 250(4)*

- (b) in the case of a corporation that
- (i) was incorporated before April 9, 1959,
  - (ii) was, on June 18, 1971, a foreign business corporation (within the meaning of section 71 of this Act as it read in its application to the 1971 taxation year) that was controlled by a corporation resident in Canada,
  - (iii) throughout the 10-year period ending on June 18, 1971, carried on business in any one particular country other than Canada, and
  - (iv) during the period referred to in subparagraph (iii), paid dividends to its shareholders resident in Canada on which its shareholders paid tax to the government of the country referred to in subparagraph (iii),

it was incorporated in Canada and, at any time in the taxation year or at any time in any preceding taxation year commencing after 1971, it was resident in Canada or carried on business in Canada; and

(c) in the case of a corporation incorporated before April 27, 1965 (other than a corporation to which paragraph (b) applies), it was incorporated in Canada and, at any time in the taxation year or at any time in any preceding taxation year of the corporation ending after April 26, 1965, it was resident in Canada or carried on business in Canada.

**251. (1)** For the purposes of this Act,

- (a) related persons shall be deemed not to deal with each other at arm's length; and
- (b) it is a question of fact whether persons not related to each other were at a particular time dealing with each other at arm's length.

**251. (1).** Subsection 139(5)

**(2)** For the purpose of this Act "related persons", or persons related to each other, are

- (a) individuals connected by blood relationship, marriage or adoption;

**(2).** Subsection 139(5a)

Arm's  
length

Relation-  
ship  
defined



*Subsection 251(2)*

- (b) a corporation and
  - (i) a person who controls the corporation, if it is controlled by one person,
  - (ii) a person who is a member of a related group that controls the corporation, or
  - (iii) any person related to a person described by subparagraph (i) or (ii);
- (c) any two corporations
  - (i) if they are controlled by the same person or group of persons,
  - (ii) if each of the corporations is controlled by one person and the person who controls one of the corporations is related to the person who controls the other corporation,
  - (iii) if one of the corporations is controlled by one person and that person is related to any member of a related group that controls the other corporation,
  - (iv) if one of the corporations is controlled by one person and that person is related to each member of an unrelated group that controls the other corporation,
  - (v) if any member of a related group that controls one of the corporations is related to each member of an unrelated group that controls the other corporation, or
  - (vi) if each member of an unrelated group that controls one of the corporations is related to at least one member of an unrelated group that controls the other corporation.

Corporations related to each other

(3) Where two corporations are related to the same corporation within the meaning of subsection (2), they shall, for the purposes of subsections (1) and (2), be deemed to be related to each other.

(3). Subsection 139(5b)

Groups

(4) In this Act,

(4). Subsection 139(5c)

"Related group"

(a) "related group" means a group of persons each member of which is related to every other member of the group; and

"Unrelated group"

(b) "unrelated group" means a group of persons that is not a related group.

## Section 251

Control by  
related  
groups,  
options,  
etc.

- (5) For the purpose of subsection (2),
- (a) where a related group is in a position to control a corporation, it shall be deemed to be a related group that controls the corporation whether or not it is part of a larger group by whom the corporation is in fact controlled;
- (b) a person who had a right under a contract, in equity or otherwise, either immediately or in the future and either absolutely or contingently, to, or to acquire, shares in a corporation, or to control the voting rights of shares in a corporation, shall, except where the contract provided that the right is not exercisable until the death of an individual designated therein, be deemed to have had the same position in relation to the control of the corporation as if he owned the shares; and
- (c) where a person owns shares in two or more corporations, he shall as shareholder of one of the corporations be deemed to be related to himself as shareholder of each of the other corporations.

(5). Subsection 139(5d)

Persons  
related  
by blood  
relation-  
ship, etc.

- (6) For the purpose of this Act,
- (a) persons are connected by blood relationship if one is the child or other descendant of the other or one is the brother or sister of the other;
- (b) persons are connected by marriage if one is married to the other or to a person who is so connected by blood relationship to the other; and
- (c) persons are connected by adoption if one has been adopted, either legally or in fact, as the child of the other or as the child of a person who is so connected by blood relationship (otherwise than as a brother or sister) to the other.

(6). Subsection 139(6)

Extended  
meaning  
of child

252. (1) In this Act, words referring to a child of a taxpayer include
- (a) an illegitimate child of the taxpayer,

252. (1). Subsection 139(8)

*Subsection 252(1)*

(b) a person who is wholly dependent on the taxpayer for support and of whom the taxpayer has, or immediately before such person attained the age of 21 years did have, in law or in fact, the custody and control, and

(c) a daughter-in-law or son-in-law of the taxpayer.

Parent

(2) In this Act, words referring to a parent of a taxpayer include a person whose child the taxpayer is, in the taxation year in respect of which the expression is being employed, within the meaning of subsection (1) or whose child the taxpayer had previously been within the meaning of paragraph (1)(b), and

(2). Subsection 139(9)

(a) "brother" includes brother-in-law,

(b) "grandparent" includes grandmother-in-law and grandfather-in-law,

(c) "parent" includes mother-in-law and father-in-law, and

(d) "sister" includes sister-in-law.

Extended  
meaning of  
carrying  
on business

253. Where, in a taxation year, a non-resident person

253. Subsection 139(7)

(a) produced, grew, mined, created, manufactured, fabricated, improved, packed, preserved or constructed, in whole or in part, anything in Canada whether or not he exported that thing without selling it prior to exportation, or

(b) solicited orders or offered anything for sale in Canada through an agent or servant whether the contract or transaction was to be completed inside or outside Canada or partly in and partly outside Canada,

he shall be deemed, for the purposes of this Act, to have been carrying on business in Canada in the year.

Contract  
under  
pension  
plan

254. For greater certainty it is hereby declared that, where a document has been issued or a contract entered into (either before, on or after September 15, 1953) purporting to create, to establish, to extinguish or to be in substi-

254. Subsection 139(10), modified

## Section 254

tution for, a taxpayer's right to an amount or amounts, immediately or in the future, out of or under a superannuation or pension fund or plan,

- (a) if the rights provided for in the document or contract are rights provided for by the superannuation or pension plan or are rights to a payment or payments out of the superannuation or pension fund, any payment under the document or contract is a payment out of or under the superannuation or pension fund or plan and the taxpayer shall be deemed not to have received, by the issuance of the document or entering into the contract, an amount out of or under the superannuation or pension fund or plan, and
- (b) if the rights created or established by the document or contract are not rights provided for by the superannuation or pension plan or a right to payments out of the superannuation or pension fund, an amount equal to the value of the rights created or established by the document or contract shall be deemed to have been received by the taxpayer out of or under the superannuation or pension fund or plan when the document was issued or the contract was entered into.

"In  
Canada"

255. The expression "in Canada" is, for greater certainty, hereby declared to include and to have always included for the purposes of this Act the sea bed and subsoil of the submarine areas adjacent to the coasts of Canada in respect of which grants are issued, by the Government of Canada or of a province, of a right, licence or privilege to explore for, drill for or take any petroleum, natural gas or minerals.

255. Subsection 139(12)

Associated  
corpora-  
tions

256. (1) For the purposes of this Act one corporation is associated with another in a taxation year if at any time in the year,

- (a) one of the corporations controlled the other,

256. (1). Subsection 39(4), modified



*Subsection 256(1)*

(b) both of the corporations were controlled by the same person or group of persons,

(c) each of the corporations was controlled by one person and the person who controlled one of the corporations was related to the person who controlled the other, and one of those persons owned directly or indirectly, in respect of each corporation, not less than 10% of the issued shares of any class of the capital stock thereof,

(d) one of the corporations was controlled by one person and that person was related to each member of a group of persons that controlled the other corporation, and that person or that group of persons owned directly or indirectly, in respect of each corporation, not less than 10% of the issued shares of any class of the capital stock thereof, or

(e) each of the corporations was controlled by a related group and each of the members of one of the related groups was related to all of the members of the other related group, and either of the related groups owned directly or indirectly, in respect of each corporation, not less than 10% of the issued shares of any class of the capital stock thereof.

Idem

(2) When two corporations are associated, or are deemed by this subsection to be associated, with the same corporation at the same time, they shall, for the purpose of this Act, be deemed to be associated with each other.

(2). Subsection 39(5), modified

Saving provision

(3) Where one corporation (hereinafter in this subsection referred to as the "controlled corporation") would, but for this subsection, be associated with another corporation in a taxation year by reason of being controlled by the other corporation or by reason of both of the corporations being controlled by the same person at a particular time in the year (which corporation or person so controlling the controlled corporation is hereinafter in this subsection referred to as the "controller"), and it is established to the satisfaction of the Minister that

(3). Subsection 39(6), modified

*Subsection 256(3)*

(a) there was in effect at the particular time an agreement or arrangement enforceable according to the terms thereof, under which, upon the satisfaction of a condition or the happening of an event that it is reasonable to expect will be satisfied or happen, the controlled corporation will

(i) cease to be controlled by the controller, and

(ii) become controlled by a person or group of persons, with whom or with each of the members of which, as the case may be, the controller was at the particular time dealing at arm's length, and

(b) the chief purpose for which the controlled corporation was at the particular time so controlled was the safeguarding of rights or interests of the controller in respect of

(i) any loan made by the controller the whole or any part of the principal amount of which was outstanding at the particular time, or

(ii) any shares of the capital stock of the controlled corporation that were owned by the controller at the particular time and that were, under the agreement or arrangement, to be redeemed by the controlled corporation or purchased by the person or group of persons referred to in subparagraph (a)(ii),

the controlled corporation and the other corporation with which it would otherwise be so associated in the year shall be deemed, for the purpose of this Act, not to be associated with each other in the year.

(4) Where one corporation would, but for this subsection, be associated with another corporation in a taxation year by reason of both of the corporations being controlled by the same trustee or executor and it is established to the satisfaction of the Minister

(4). Subsection 39(6a), modified

*Subsection 256(4)*

(a) that the trustee or executor did not acquire control of the corporations as a result of one or more trusts or estates created by the same individual or two or more individuals not dealing with each other at arm's length, and

(b) that the trust or estate under which the trustee or executor acquired control of each of the corporations arose only upon the death of the individual creating the trust or estate

the two corporations shall be deemed, for the purposes of this Act, not be associated with each other in the year.

Idem

(5) Where one corporation would but for this subsection, be associated with another corporation in a taxation year, by reason only that the other corporation is a trustee under a trust pursuant to which the corporation is controlled, the two corporations shall be deemed, for the purposes of this Act, not to be associated with each other in the year unless, at any time in the year, a settlor of the trust controlled or is a member of a related group that controlled the other corporation that is the trustee under the trust.

(5). Subsection 39(6b), modified

Where  
corpora-  
tion has  
degree of  
Canadian  
ownership

257. (1) For the purposes of this Act, a corporation has a degree of Canadian ownership in a taxation year if throughout any 60-day period included in the 120-day period commencing 60 days before the first day of the year,

(a) the corporation complied with the following conditions:

(i) the corporation was resident in Canada,

(ii) either

(A) not less than 25% of the issued and outstanding shares of the corporation having full voting rights under all circumstances were owned by one or more individuals resident in Canada, one or more corporations controlled in Canada or a combination thereof, and

257. (1). Subsection 139A(1)

equity shares representing in the aggregate not less than 25% of that part of the paid-up capital of the corporation that was represented by all the issued and outstanding equity shares of the corporation were owned by one or more individuals resident in Canada, one or more corporations controlled in Canada, or a combination thereof, or

(B) a class or classes of shares of the corporation having full voting rights under all circumstances were listed on a prescribed stock exchange in Canada, and it is established in prescribed manner that no one non-resident person and no one corporation that did not comply with clause (A) owned more than 75% of the issued and outstanding shares of the corporation having full voting rights under all circumstances, alone or in combination with any other person related to such non-resident person or such corporation at any time within the period, and a class or classes of equity shares of the corporation representing in the aggregate not less than 50% of that part of the paid-up capital of the corporation that was represented by all the issued and outstanding equity shares of the corporation were listed on a prescribed stock exchange in Canada, and it is established in prescribed manner that no one non-resident person and no one corporation that did not comply with clause (A) owned equity shares representing in the aggregate more than 75% of that part of the paid-up capital of the corporation that was represented by all the issued and outstanding equity shares of the corporation, alone or in combination with any other person related to such non-resident person



*Subsection 257(1)*

or such corporation at any time within the period, and

(iii) where the year commenced after 1964, the number of directors who were resident in Canada was not less than 25% of the total number of directors of the corporation;

(b) the corporation complied with the conditions specified in subparagraphs (a)(i) and (iii) and was a subsidiary wholly-owned corporation subsidiary to a corporation that throughout the 60-day period complied with the conditions specified in paragraph (a) or (c); or

(c) the corporation complied with the conditions specified in subparagraphs (a)(i) and (iii) and was a subsidiary controlled corporation

(i) of which equity shares representing at least 75% of that part of the paid-up capital of the corporation that is represented by all the issued and outstanding equity shares were owned by

(A) the corporation to which it was subsidiary,

(B) a corporation controlled in Canada,

(C) an individual resident in Canada, or

(D) any combination of persons described in clause (A), (B) or (C), and

(ii) subsidiary to a corporation that throughout the 60-day period complied with the conditions specified in paragraph (a) or (b).

(2) For the purposes of this section,

(a) a corporation that has share capital is not controlled in Canada at a particular time unless at that time the corporation is resident in Canada, and

(2). Subsection 139A(2)

*Subsection 257(2)*

- (i) more than 50% of its issued and outstanding shares having full voting rights under all circumstances,
- (ii) shares representing in the aggregate more than 50% of its paid-up capital, and
- (iii) equity shares representing in the aggregate more than 50% of that part of the paid-up capital of the corporation that is represented by all the issued and outstanding equity shares

are owned by

- (iv) individuals resident in Canada,
- (v) corporations resident in Canada with respect to each of which
  - (A) more than 50% of the issued shares having full voting rights under all circumstances,
  - (B) shares representing in the aggregate more than 50% of the paid-up capital, and
  - (C) equity shares representing in the aggregate more than 50% of that part of the paid-up capital of the corporation that is represented by all the issued and outstanding equity shares

are owned by individuals resident in Canada, or

- (vi) any combination of individuals or corporations described in subparagraph (iv) or (v);

(b) where

- (i) a non-resident person,
- (ii) a corporation that does not have a degree of Canadian ownership, or
- (iii) a corporation that is related to a non-resident person

has a right, either as an incident of ownership of a share of a corporation or otherwise under a contract, in equity or otherwise, either immediately or in the future and either absolutely or contingently, to, or to acquire, equity shares in a corporation, those shares shall

- (iv) unless the right is contingent upon an event that it is not reasonable to expect to occur within a reasonable time, or
- (v) unless the right is such that a reasonable man concerned only with the value of the shares would not exercise it,

be deemed

(vi) to be owned by the person who has the right,

(vii) to be owned by a non-resident person, where the person who has the right is a corporation described in subparagraph

(ii) or (iii), and

(viii) where the shares are unissued,

(A) to be issued and outstanding, and

(B) to have a paid-up capital value, with respect to each share, equal to

1. the par value, where the shares have a par value,

2. the amount that would be paid with respect to each share to exercise the right under the terms of the contract, where the shares have no par value and an amount is specified in the contract, or

3. the market value at the end of the relevant 60-day period of a share of the class of shares of that corporation that is most closely similar to that share, where the shares have no par value and no amount is specified in the contract,

and any other person who actually owns the shares in respect of which that right exists shall be deemed not to own those shares;

(c) where shares are owned by a trustee resident in Canada, other than a trustee

(i) who is a trustee under

(A) a registered pension fund or plan,

(B) a deferred profit sharing plan,

(C) an employees profit sharing plan, or

(D) a supplementary unemployment benefit plan in relation to which at least 75% of the employees covered by the plan are resident in Canada, and

(ii) who owns, as trustee, if he is a trustee under a registered pension fund or plan, less than 10% of the issued and outstanding equity shares of a corporation that is an employer of employees covered by the registered pension fund or plan, or a corporation related thereto,

the shares shall be deemed not to be owned by a person resident in Canada unless it is established that each beneficiary under the trust is an individual resident in Canada;

(d) where, during any relevant 60-day period referred to in subsection (1), a director of a corporation who is resident in Canada dies and within 60 days thereafter another person who is resident in Canada is appointed or elected to be a director of the corporation, such other person shall be deemed to have become such a director immediately upon the death of the deceased director;

(e) "equity share" means

(i) a share, other than a non-participating share, the owner of which has, as owner thereof, a right

(A) to a dividend, and

(B) to a part of the surplus of the corporation after repayment of capital and payment of arrears of dividend, upon the redemption of the share, a reduction of the capital of the corporation or the winding up of the corporation,

at least as great, in any event, as the right of the owner of any other share, other than a non-participating share, of the corporation, when the magnitude of the right in each case is expressed as a rate based on the paid-up capital value of the share to which the right relates, or

(ii) a share, other than a non-participating share, the owner of which has, as owner thereof, a right

"Equity share"



(A) to a dividend, after a dividend at a rate not in excess of 8% per annum of the paid-up capital value of each share has been paid to the owners of shares of a class other than the class to which that share belongs, and

(B) to a part of the surplus of the corporation after repayment of capital and payment of arrears of dividend, upon the redemption of the share, a reduction of the capital of the corporation or the winding up of the corporation, after a payment of a part of the surplus at a rate not in excess of 10% of the paid-up capital value of each share has been made to the owners of shares of a class other than the class to which that share belongs,

at least as great, in any event, as the right of the owner of any other share, other than a non-participating share, of the corporation, when the magnitude of the right in each case is expressed as a rate based on the paid-up capital value of the share to which the right relates;

(f) “non-participating share” means a share the owner of which is not entitled to receive, as owner thereof, any dividend other than a dividend, whether cumulative or not,

(i) at a fixed annual rate or amount, or

(ii) at an annual rate or amount not in excess of a fixed annual rate or amount;

(g) “paid-up capital value”, with reference to a share, means

(i) in the case of an unissued share that is deemed by paragraph (b) to be issued and outstanding, the amount determined under clause (viii)(B) of that paragraph, and

(ii) in any other case, an amount equal to the paid-up capital of the corporation that is represented by the shares of the class to which that share belongs divided by the number of shares of that class that are in fact issued and outstanding; and

“Non-participating share”

“Paid-up capital value”

(h) where

(i) the paid-up capital of a corporation that is represented by all the issued and outstanding equity shares of the corporation is less than 50% of the paid-up capital of the corporation that is represented by all the issued and outstanding shares of the corporation other than non-participating shares, or

(ii) a non-participating share of the corporation, the owner of which has, as owner, a right to a dividend

(A) at a fixed annual rate in excess of 8%, or

(B) at an annual rate not in excess of a fixed maximum annual rate, if the fixed maximum annual rate is in excess of 8%,

when the right to the dividend is expressed as a rate based on the paid-up capital value of the share to which the right relates, is issued and outstanding, the issued and outstanding equity shares of the corporation shall be deemed not to be equity shares.”

2. Part IV of the *Income Tax Act* as it read on June 18, 1971 does not apply in respect of gifts made after 1971.

## PART II

*Estate  
Tax Act*

3. The *Estate Tax Act* does not apply in the case of the death of any person whose death occurred after 1971.

*Old Age  
Security  
Act*

4. Subsections 24(3) to (6) of the *Old Age Security Act* are repealed.

*Acts  
amended*

5. The provisions of the Acts set out in Column I of the Schedule to this section are amended in the manner and to the extent indicated in the Schedule.

## Schedule to section 5

| Column I   |   | Column II  | Column III                          |
|--|---|--|-------------------------------------|
| Act affected   |   | Section, etc. of<br><i>Income Tax Act</i><br>that is referred<br>to in R.S. 1970 | The reference is amended<br>to read |
| R.S. 1970 Title  | Section, etc.                           |  |                                     |
| Anti-dumping Act . . . . .   | para. 2(2)(a)                           | subs. 139(5)   | subs. 251(1)                        |
| Canada Council Act . . . . .   | para. 21(a)                             | para. 62(1)(e)   | para. 149(1)(f)                     |
| Canada Pension Plan . . . . .  | subs. 11(1)                             | para. 11(1)(q)   | para. 8(1)(c)                       |
|  | subs. 24(2)                             | subs. 116(4), (5)  | subs. 220(4), (5)                   |
|  | subs. 24(2)                             | s. 119   | s. 223                              |
|  | subs. 24(2)                             | s. 120   | s. 224                              |
|  | subs. 24(2)                             | s. 124   | s. 229                              |
|  | subs. 24(2)                             | s. 130   | s. 236                              |
|  | subs. 24(2)                             | s. 136   | s. 244                              |
|  | subs. 34(2)                             | s. 48  | s. 155                              |
|  | subs. 36(1)                             | subs. 55(1)  | subs. 162(1)                        |
|  | s. 37                                   | Divisions F, I and J of Part I   | Divisions I and J of Part I         |
|  | s. 37                                   | Part V   | Part XV                             |
|  | s. 37                                   | s. 117   | s. 221                              |
|  | s. 38                                   | s. 123A  | s. 228                              |
|  | subs. 39(7)                             | subs. 57(3), (3a)  | subs. 164(3), (4)                   |
| Company of Young Canadians Act . . . . .                                   | para. 22(a)                             | para. 62(1)(e)   | para. 149(1)(f)                     |
| Estate Tax Act . . . . .   | subs. 25(2)                             | s. 59  | s. 169                              |
|  | subs. 26(3)                             | s. 60  | s. 172                              |
|  | s. 59                                   | s. 136   | s. 244                              |
| Export Development Act . . . . .   | s. 22                                   | s. 84  | s. 27                               |
| Industrial Research and Development<br>Incentives Act . . . . .            | subs. 2(1), definition<br>"corporation" | s. 62  | s. 149                              |
|  | clause 5(1)(a)(ii)(B)                   | para. 62(1)(gc)  | para. 149(1)(f)                     |
|  | subs. 9(2)                              | para. 20(6)(h)   | para. 13(7)(e)                      |
|  | para. 11(1)(d)                          | s. 62  | s. 149                              |
|  | para. 14(h)                             | s. 72, s. 72A  | s. 37                               |
| National Arts Centre Act . . . . .   | para. 15(a)                             | para. 62(1)(e)   | para. 149(1)(f)                     |
| National Capital Act . . . . .   | para. 21(a)                             | para. 62(1)(e)   | para. 149(1)(f)                     |
| National Museums Act . . . . .   | para. 20(a)                             | para. 62(1)(e)   | para. 149(1)(f)                     |
| Pension Benefits Standards Act . . . . .                                   | s. 2, definition<br>"pension plan,"     | s. 79  | s. 144                              |
|  | para. (d)                               | s. 79C   | s. 147                              |
| R.S. 1970 1st Supplement   |   |  |                                     |
| Canadian and British Insurance Companies<br>Act, Amendment . . . . .       | subs. 52(2)"91(22)(b)"                  | s. 8   | s. 15                               |
|  | subs. 52(2)"91(22)(b)"                  | subs. 68A(7)   | subs. 138(7)                        |
|  | subs. 52(2)"91(22)(b)"                  | s. 81  | s. 84                               |
| Industrial Research and Development<br>Incentives Act, Amendment . . . . . | s. 1"2(2)"                              | s. 39  | s. 256                              |
|  | s. 3"6(4)"                              | subs. 851(1)   | s. 87(1)                            |
| International Development Research<br>Centre Act . . . . .                 | para. 19(a)                             | para. 62(1)(e)   | para. 149(1)(f)                     |
| Standards Council of Canada Act . . . . .                                  | s. 18                                   | para. 62(1)(e)   | para. 149(1)(f)                     |

*Canada  
Corporations  
Act*

6. The reference to section 68 of the *Income Tax Act* contained in subsection 128(3) of the *Canada Corporations Act* shall be construed as a reference to section 68 of the *Income Tax Act* as it read in its application to the 1971 taxation year.

*Emergency  
Gold  
Mining  
Assistance  
Act*

7. (1) The definition "cost of production" in subsection 2(1) of the *Emergency Gold Mining Assistance Act* is repealed and the following substituted therefor:

"cost of  
production"  
«frais . . .»

" "cost of production" of gold from a mine during any period means the costs incurred by the operator of the mine in, and properly attributable to, the production of gold produced from the mine during that period, and includes mining, milling, smelting, refining, transportation and administrative costs so incurred and so attributable, and includes such amounts in respect of depreciation, amortization of preproduction expenses, and costs of exploration and development in the mine as may be determined in accordance with the regulations, but does not include any amount in respect of depletion or off-property exploration and development, or, subject to the regulations, any amount in respect of any matter, other than provincial mining taxes, for which a deduction is not allowed in determining income from the mine for the purposes of the *Income Tax Act*;"

"first  
year of  
production"  
«pre-  
mière . . .»

(2) The definition "first year of production" in subsection 2(1) of the said Act is repealed and the following substituted therefor:

" "first year of production" means the period of twelve months commencing with the day on which, in the opinion of the Minister, the mine attained production in reasonable commercial quantities;"



(3) Subsection 2(1) of the said Act is further amended by adding thereto immediately after the definition "Minister" the following definition:

"provincial mining tax"  
«impôt minier provincial»

"provincial mining tax" means a tax, royalty or duty levied under the *Mining Tax Act* of the Province «impôt minier provincial» of British Columbia, the *Mining Duties Act* of the Province of Quebec, *The Mining Tax Act* of the Province of Ontario, the *Yukon Placer Mining Act* or any regulations respecting mining on land in the Northwest Territories made under the *Public Lands Grants Act*, the *Territorial Lands Act* or both such Acts;"

### PART III

Short title

8. The provisions of this Part may be cited as the *Income Tax Application Rules, 1971*.

Definitions

9. In this Part,

"Amended Act"

(a) "amended Act" means the *Income Tax Act* as amended by section 1; and

"Former Act"

(b) "former Act" means the *Income Tax Act* as it was before being amended by section 1.

#### *Application of Parts*

Application of s.1 of this Act

10. Subject to the provisions of the amended Act and subject to this Part, section 1 of this Act applies to the 1972 and subsequent taxation years.

Application of Part XIII of amended Act

11. (1) Part XIII of the amended Act is applicable to amounts paid or credited after 1971.

Idem

(2) Where before 1976 an amount is paid or credited or is deemed by Part I of the amended Act to be paid or credited to a non-resident person, for the purposes of computing the tax under Part XIII thereof payable by the non-resident person on the amount,

(a) the references in subsections 212(1) and (2) thereof to "25%" shall be read as references to "15%"; and

(b) the reference in subsection 212(5) thereof to "25%" shall be read as a reference to "10%".

Idem

(3) Where an amount is paid or credited by a person resident in Canada to a non-resident person

(a) who is resident in a prescribed country, and

(b) with whom the person resident in Canada was dealing at arm's length,

as, on account or in lieu of payment of, or in satisfaction of, interest payable on any bond, debenture, mortgage, hypothec, note or similar obligation issued before 1976 by the person resident in Canada to the non-resident person, for the purposes of computing the tax under Part XIII of the amended Act payable by the non-resident person on the amount, subsection 212(1) shall be read as if the reference therein to "25%" were read as a reference to "15%".

Application  
of Part XIV  
of amended  
Act

12. Part XIV of the amended Act is applicable to the 1972 and subsequent taxation years except that, in its application to the 1972 to 1975 taxation years, the references therein to "25%" shall be read as references to "15%".



















